PROCEEDINGS

OF THE

TRAVANCORE SRI MULAM ASSEMBLY.

THIRD ASSEMBLY.

FIRST SESSION.

Tuesday, the 29th August 1944|14th Chingam 1120.

(OFFICIAL REPORT)

Vol. XXIV—No. 12.

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(*OFFICIAL REPORT.*)

THIRD ASSEMBLY.

FIRST SESSION—1944/1120.

SECOND MEETING.

Tuesday, the 29th August 1944/14th Chingam 1120.

The Assembly met again at twelve of the clock, with the Dewan-President presiding.

MEMBERS SWORN.

The following members took the oath and signed the rolls:—

1. Mr. I. C. Chacko (*Chief Engineer, P. W. D.*)
2. Mr. S. John (*Surgeon-General.*)
3. Mr. Joseph Vithayathil (*Co-opted member for the Chitties Bill.*)
4. Mr. N. Kesava Pillai (*Co-opted member for the Chitties Bill.*)
5. Mr. P. N. Krishna Pillai (*Co-opted member for the Trade Boards Bill and the Workmen's Compensation Act (Amendment) Bill.*)
6. Mr. K. Madhava Kurup (*Director of Registration.*)

QUESTIONS AND ANSWERS.

Junghar service at Ittynayarkadavu.

235. *MR. PULIYOOR T. P. VELAYUDHAN PILLAI (*Tiruvalla*): Will the Government be pleased to state:

(*a*) whether a junghar service was started at the Ittynayarkadavu ferry on the Puliyoor-Mannar Road, and if so, when; and

(*b*) the present condition of the junghar service at the above place?

MR. I. C. CHACKO (*Chief Engineer P. W. D.*): (*a*) Yes, on 1-11-1115 M. E.

(*b*) Good.

Illimala Thodu.

236. *MR. C. K. SANKARA PILLAI (*Tiruvalla*): Will the Government be pleased to state:

(*a*) whether the ancient Illimala Thodu which starts from the river Pampa just below the temple ghat at Chengannur, and runs south-west through the pakuthies of Vadakkekara, Puliyoor and Pandanad reaching Illimala, is not unfit for navigation and irrigation;

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5. Annexures—

(i) Amendment to Order XXVIII of the Civil Procedure Code, 1100 (published under Standing Order 39 of the Sri Mulam Assembly Standing Orders) ... i

(ii) The Travancore Workmen's' Compensation Act (Amendment) Bill (published under Rule 31 of the Travancore Legislative Rules) ... ii

(iii) The Travancore District Municipalities Act (Amendment) Bill (do.) ... iii

(iv) The Travancore Provident Funds Act (Amendment) Bill (do.) ... v

(v) The Civil Procedure Code (Amendment) Bill (do.) ... vi

(vi) The Travancore Town Planning Act (Amendment) Bill (do.) ... vii

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[Mr. C. K. Sankara Pillai.]

(*b*) whether any representations have been made to the Government for widening and deepening this thodu;

(*c*) whether any action has been taken to improve it; and

(*d*) if not, the reasons for the same?

MR. I. C. CHACKO: (*a*) Yes.

(*b*) Yes.

(*c*) and (*d*) An estimate has been prepared. Further steps could be taken only after ascertaining the willingness of the ryots to pay cess.

MR. K. K. CHELLAPPAN PILLAI (*Mavelikara cum Kunnathur*): May I know when the estimate was prepared?

MR. I. C. CHACKO: In 1939.

MR. K. K. CHELLAPPAN PILLAI: Was any step taken to ascertain the willingness of the ryots?

MR. I. C. CHACKO: Yes, through the Revenue Department.

MR. K. K. CHELLAPPAN PILLAI: What is the result of the investigation?

MR. I. C. CHACKO: The result is not yet known.

MR. K. K. CHELLAPPAN PILLAI: May I know whether it is the policy of Government to ascertain the willingness of ryots in the matter of constructing irrigation canals?

MR. I. C. CHACKO: Yes. The delay is due to the fault of the ryots.

MR. C. K. SANKARA PILLAI: May I know whether there is already an existing thodu which can be used as a navigation canal?

MR. I. C. CHACKO: A portion is existing as a navigation canal.

Culvert on the Vizhinjam-Poovar Road

237. ***MR. J. T. MORAES** (*Neyyattinkara cum Trivandrum*): Will the Government be pleased to state:

(*a*) whether they are aware that a culvert constructed on the Vizhinjam-Poovar Road near the place called Chappathu (ചപ്പാത്തു) has sunk down and the stream is flowing over the road obstructing traffic; and

(*b*) if so, how long it is since the culvert has sunk down?

MR. I. C. CHACKO: (*a*) No.

(*b*) Does not arise in view of answer to part (*a*).

Bridge at Vettikal Market.

238. ***MR. PULIYOOR T. P. VELAYUDHAN PILLAI**: Will the Government be pleased to state:

(*a*) the present condition of the bridge at Vettikal Market in Vaipur Pakuthi, Tiruvalla taluk;

(*b*) the period during which there has been no bridge at the above place; and

(*c*) the reason for the delay in constructing the above bridge?

MR. I. C. CHACKO: (*a*) Not very good being a temporary structure.

(b) Till 1104 when the foot bridge was first constructed.

(c) The question of constructing a permanent bridge was considered after the floods of 1115 and the work was approved by the P. W. D. Advisory Committee. The necessary investigation has been conducted and an estimate is under preparation.

Bridge over the Killiar.

239. ✱**MR. T. K. NARAYANA PILLAI** (*Neyyattinkara cum Trivandrum*): Will the Government be pleased to state whether they are aware that the bridge over the Killiar at Marthandankuzhi is very ancient and is not in a safe condition?

MR. I. C. CHACKO: The bridge at Marthandankuzhi is ancient and it is in safe condition now.

Cherupalam Bridge.

240. ✱**MR. E. K. MADHAVAN** (*Kunnathunad cum Parur*): Will the Government be pleased to state whether they have decided to demolish the Cherupalam Bridge in the Parur-Kunnathally Road and construct a cartable bridge instead?

MR I. C. CHACKO: No, not until the traffic develops.

Chathiyara Bridge.

241. ✱**MR. K. K. CHELLAPPAN PILLAI:** Will the Government be pleased to state why the work of repairing Chathiyara Bridge near Thamarakulam, Mavelikara taluk, on the road from Thamarakulam to Oachira is being delayed?

MR. I. C. CHACKO: The work of the bridge will be taken up on the completion of improvements to the road.

Bridge at Puthiakavu.

242. ✱**MR. R. MADHAVAN NAIR** (*Karunagapalli cum Kartikapalli*): Will the Government be pleased to state whether there is any proposal to put up a bridge at Puthiakavu on the Puthiakavu-Chakkuvally road in the Karunagapalli taluk?

MR. I. C. CHACKO: Yes.

MR. R. MADHAVAN NAIR: ആ പാലത്തിന്റെ എസ്റ്റിമേറ്റ് തയ്യാറാക്കിയിട്ടുണ്ടോ?

MR. I. C. CHACKO: ഇപ്പോൾ തയ്യാറാക്കുന്നുണ്ട്.

MR. R. MADHAVAN NAIR: ഈ ആണ്ടിൽതന്നെ അതിന്റെ പണി ആരംഭിക്കുമെന്നു പ്രതീക്ഷിക്കാമോ?

MR. I. C. CHACKO: വിചാരിക്കാൻ ന്യായമില്ല.

Vallichel Temporary Bridge.

243. ✱**MR. C. K. SANKARA PILLAI:** Will the Government be pleased to state:

[Mr. C. K. Sankara Pillai.]

(a) whether any amount has been allotted for the repair of the Vallichel temporary bridge on the approaches of the Vettikkal Market on the Jacob's Road ;

(b) whether any representation has been made to the Government to put up a permanent bridge in supersession of the temporary bridge ;

(c) if so, what steps have been taken in pursuance of such representation ;

(d) whether Government are aware that the Jacob's road is unfit for traffic at present ; and

(e) whether any estimate has been called for to put up a bridge at Angatikkal Thodu, at Vaipore on the Jacob's road ?

MR. I. C. CHACKO : (a) No.

(b) Yes.

(c) Investigation was conducted and an estimate is under preparation.

(d) Yes.

(e) No.

MR. C. K. SANKARA PILLAI : Has the Chief Engineer seen the condition of the Vallichel Bridge recently?

MR. I. C. CHACKO : No, Sir.

Bridge at Erattupetta.

244. * **MR. P. S. GOPALA PILLAI** (*Minachil cum Todupuzha*) : Will the Government be pleased to state :

(a) how much money has been spent for considering the scheme of a bridge at Erattupetta over the Minachil river ;

(b) whether any definite scheme has been made out till this time ; and

(c) whether the Government intend to construct the bridge in the near future ?

MR. I. C. CHACKO : (a) Rs. 137.

(b) No.

(c) They have no present intention to construct the bridge.

Peringara Bridge.

245. * **MR. K. A. MATHEW** (*Tiruvalla*) : Will the Government be pleased to state :

(a) the years in which the construction of Peringara (പെരിങ്ങര) Bridge (on the western limit of Tiruvalla Municipal Town) was included in the Budget ;

(b) whether any preliminary work was done ; and

(c) whether the Government will be pleased to commence the work soon ?

MR. I. C. CHACKO : (a) 1105, 1116 and 1117 M. E.

(b) Yes.

(c) Yes, as soon as the required quantity of cement and steel becomes available.

Tiruvanmandoor Village Road.

246. ***MR. C. K. SANKARA PILLAI** : Will the Government be pleased to state :

(*a*) whether steps have been taken to complete the Tiruvanmandoor Village Road which starts from the 76 1/2 mile on M. C. Road by extending it to Eramallikkara ;

(*b*) whether the present road is not unfit for traffic ; and

(*c*) whether any amount has been allotted to repair the same ?

MR. I. C. CHACKO : (*a*) No.

(*b*) Not unfit for traffic during fair weather.

(*c*) The usual maintenance grant is allotted.

Road leading to the Thiruvamvantoor temple.

247. ***MR. PULIYOOR T. P. VELAYUDHAN PILLAI** : Will the Government be pleased to state :

(*a*) whether the road leading from the M. C. Road to the Thiruvamvantoor temple in Tiruvalla taluk has been under departmental maintenance ;

(*b*) the present condition of the above road ; and

(*c*) whether any maintenance was done on this road during the last three years ?

MR. I. C. CHACKO : (*a*) Yes.

(*b*) Fair.

(*c*) Yes.

MR. PULIYOOR T. P. VELAYUDHAN PILLAI : May I know from the Chief Engineer whether he has inspected this part of the road during the last one or two years?

MR. I. C. CHACKO : Yes, Sir.

MR. PULIYOOR T. P. VELAYUDHAN PILLAI : May I know from the honourable member whether he is aware that it is in a very very miserable condition?

MR. I. C. CHACKO : It is a fair weather road subject to submergence during flood and that is why the road is bad.

Condition of certain roads in the Tiruvalla taluk

248. ***MR. PULIYOOR T. P. VELAYUDHAN PILLAI** : Will the Government be pleased to state :

(*a*) the present condition of the Vennikulam-Ezhumattur Road, Vennikulam-Mallappally Road, Vennikulam-Ranni Road and Ezhumattur-Cherukolepuzha road ;

(*b*) the period during which there was no maintenance work done on the above roads by the department ; and

(*c*) whether the Chief Engineer, Executive Engineer or the Assistant Engineer has inspected the above roads during the period of last three years, if so, when and by whom ?

MR. I. C. CHACKO : (*a*) Fairly good.

(*b*) Maintenance works are being done every year.

(*c*) Yes. * A statement is placed on the table.

Changanacherry—Kaviyur Road.

249. *MR. C. K. SANKARA PILLAI : Will the Government be pleased to state:

(*a*) whether the Changanacherry-Kaviyur road from the point where it crosses the Tiruvalla-Mallappalli road and proceeds eastwards is not unfit for traffic; and

(*b*) whether funds have been allotted to improve the same?

MR. I. C. CHACKO : (*a*) Not unfit for traffic.

(*b*) The usual annual maintenance grant is allotted

Kottayam—Vaikom Road.

250. *MR. K. R. NARAYANAN (*Nominated*) : In regard to the Kottayam-Vaikom Road *via* Kumarakom, will the Government be pleased to state:

(*a*) the date of sanctioning the work;

(*b*) the date on which the work was started;

(*c*) the total length of the road;

(*d*) the length of the portion completed;

(*e*) the probable total expenditure; and

(*f*) the expenses incurred till now?

MR. I. C. CHACKO : (*a*) No estimate has been sanctioned for the work and hence the question of date of sanctioning the work does not arise.

(*b*) Does not arise in view of answer to (*a*)

(*c*) 19¼ miles.

(*d*) 13¾ miles except certain bridges and culverts.

(*e*) Cannot be ascertained now.

(*f*) Rs. 60,000.

MR. K. R. NARAYANAN : കോട്ടയം-കുമരകം റോഡിന് ഗവൺമെന്റിൽ നിന്നും സാങ്ക്ഷൻ കിട്ടിയിട്ടുണ്ടോ?

MR. I. C. CHACKO : ഉണ്ട്.

MR. K. R. NARAYANAN : വയ്ക്കം-വെച്ചൂർ റോഡിന് ഗവൺമെന്റ സാങ്ക്ഷൻ ഉണ്ടോ?

MR. I. C. CHACKO : ഉണ്ട്.

MR. K. R. NARAYANAN : കോട്ടയം-കുമരകം റോഡ്, വയ്ക്കം-വെച്ചൂർ ഈ റോഡുകളുടെ ഇടയിൽ കിടക്കുന്ന സ്ഥലം ഈ റോഡുമായി ഘടിപ്പിക്കുന്നതിന് ഏതെങ്കിലും പ്രൊപ്പോസൽ ഉണ്ടോ?

MR. I. C. CHACKO : ഒന്നാം ഭാഗത്തിന് എസ്റ്റിമേറ്റു തയാറായിട്ടുണ്ട്.

Vide Appendix I—Page 860.

Hospital for Women in the Kottayam Division.

251. *MR. P. M. VARGHESE (*Minachil cum Thodupuzha*): Will the Government be pleased to state:

(*a*) whether a deputation of women from Thodupuzha waited on the Dewan and represented their grievance in the matter of opening a hospital for women in the Kottayam Division in 1933; and

(*b*) what the Dewan's reply was?

DR. S. JOHN (*Surgeon General*): (*a*) and (*b*) Government have no information.

MR. V. SREEDHARAN PILLAI: Sir, May I know from the honourable member whether the lending of surgical instruments to private practitioners is prohibited?

MR. S. JOHN: Private practitioners are expected to have their own instruments.

Lending of surgical instruments.

252. *MR. E. K. MADHAVAN (*Kunnatnad cum Parur*): Will the Government be pleased to state whether there is any Standing Order regarding the lending of surgical instruments from Government Hospitals to private practitioners for emergencies on payment of a fixed rental?

DR. S. JOHN: There is no such Standing Order.

Relief work in the Shertalai and Ambalapuzha taluks.

253. *MR. XAVIER VINCENT (*Ambalapusha cum Shertalai*): Will the Government be pleased to state:

(*a*) the total amount allotted for relief work in the Shertalai and Ambalapuzha taluks in 1115, 1116 and 1117;

(*b*) whether the entire amount sanctioned has been spent;

(*c*) if the answer to part (*b*) is in the negative, the reasons therefor;

(*d*) why relief work has been stopped in those taluks; and

(*e*) whether Government are aware that there is a good deal of unemployment and consequent want in those taluks more particularly in Shertalai?

MR. I. C. CHACKO: (*a*) Rs. 79,509 in 1115.

Rs. 2,10,200—in 1116.

Rs. 77,329—in 1117.

(*b*) & (*c*) The entire amount could not be spent mainly on account of delay in getting lands surrendered.

(*d*) Owing to improvement in the situation caused by the labour problem.

(*e*) No.

MR. K. A. MATHEW: What is the improvement in the situation caused by the labour problem?

MR. I. C. CHACKO: There is no need for any relief work in that locality at present, as there is no unemployment there.

Irrigation works in the Tiruvalla taluk.

254. *MR. C. K. SANKARA PILLAI: Will the Government be pleased to state:

[Mr. C. K. Sankara Pillai]

(*a*) the total amount allotted in the budget of 1119 for irrigation works in the Tiruvalla taluk;

(*b*) the items of works for which the funds were allotted with amounts set apart for each item;

(*c*) the works completed during the year;

(*d*) the works already begun and not completed during the year;

(*e*) the reasons for not completing the works already begun;

(*f*) the reasons for not beginning the works intended to be completed; and

(*g*) the amount already spent out of the funds allotted?

MR. I. C. CHACKO: (*a*) Rs. 36,500.

(*b*) A *statement is placed on the table.

(*c*) Nil.

(*d*) Items of works in Part I of the Budget *Vide* Statement in reply to part (b).

(*e*) Delay in the acquisition of lands and the high cost of labour and materials.

(*f*) Delay in the acquisition of lands and the high cost and scarcity of labour and materials.

(*g*) Will be available only when the accounts of the year are closed.

MR. C. K. SANKARA PILLAI: With reference to the answers to parts (c) and (f), will the honourable member be pleased to suggest any method of avoiding the delay?

MR. I. C. CHACKO: Some special arrangements have been sanctioned recently to expedite the acquisition of land.

Irrigation in Parur and Kunnatnad.

255. ***MR. K. BALAKRISHNA MENON** (*Kunnatnad cum Parur*): Will the Government be pleased to state:

(*a*) whether any survey work was conducted by the Irrigation Department regarding minor irrigation in Parur and Kunnatnad taluks;

(*b*) if so, please mention the works;

(*c*) if the answer to part (*a*) is in the negative, why it was not conducted; and

(*d*) whether the Government have received any representation about the following minor irrigation works:—

(i) Kythakam Chira in Manjapara pakuthi in Kunnatnad taluk;

(ii) deepening of Vadathodu lying between Edappally North and South in Parur taluk?

MR. I. C. CHACKO: (*a*) Yes.

(*b*) A *list of works investigated is laid on the table.

(*c*) Does not arise.

*Vide Appendix II—Page 861.
*Vide Appendix III—Page 862.

(*d*) (i) Yes.
(ii) No.

MR. K. BALAKRISHNA MENON: With reference to part (a) of the answer, may I know what further action has been taken?

MR. I. C. CHACKO: An estimate is under preparation.

Water Supply in the Kottayam town.

256 * MR. K. R. NARAYANAN: Will the Government be pleased to state:

(*a*) whether they have any scheme for water supply in the Kottayam town; and

(*b*) if so, the stage at which the scheme is at present?

MR. I. C. CHACKO: (*a*) No scheme has been formulated, but some preliminary investigations have been conducted.

(*b*) Does not arise in view of the answer to part (*a*).

MR. K. R. NARAYANAN: സർ, എന്നാണ് ഇൻവെസ്റ്റിഗേഷൻ നടത്തിയതെന്നും അതിന്റെ നടപടി എന്താണെന്നും പറയാമോ?

MR. I. C. CHACKO: അതു നടത്തിയതു് രണ്ടു കൊല്ലങ്ങൾക്കു മുമ്പാണ്.

MR. K. R. NARAYANAN: അതിന്റെ റിസൽട്ട് എന്താണെന്നു പറയുവാൻ ദയവുണ്ടാകുമോ?

MR. I. C. CHACKO: തീർച്ചയായിട്ടില്ല.

MR. K. R. NARAYANAN: കോട്ടയം പട്ടണത്തിൽ വെള്ളം കൊണ്ടുവരുന്നതിന് എന്തെങ്കിലും മാർഗ്ഗം കണ്ടിട്ടുണ്ടോ?

MR. I. C. CHACKO: ഉണ്ടു്.

MR. K. R. NARAYANAN: എന്താണ് അതു്?

MR. I. C. CHACKO: രണ്ടു വഴികൾ ഉണ്ടു്. ഒന്നു് കിണറുകൾ ധാരാളം കുഴിപ്പിക്കുക. രണ്ടാമത്തു് മീനച്ചിലാററിൽനിന്നും പൈപ്പുവഴി വെള്ളം കൊണ്ടുവരിക.

MR. K. R. NARAYANAN: ൧൧൭-ലെ ബഡ്ജററിൽ ഇതിനു പ്രൊവിഷൻ ഉണ്ടായിരുന്നോ?

MR. I. C. CHACKO: ഉണ്ടായിരുന്നു.

MR. K. R. NARAYANAN: ൧൧൨൭-ൽ എന്തെങ്കിലും ഇതിനെസംബന്ധിച്ചു ചെയ്യുകയുണ്ടായോ?

MR. I. C. CHACKO: ബഡ്ജററിൽ നാലു കിണറുകൾ കുഴിക്കുന്നതിനു, അനുവാദമുണ്ടു്. അതിൽ ഒന്നു കുഴിപ്പിച്ചു.

MR. K. R. NARAYANAN: അതിന് മുനിസിപ്പാലിററിയിൽ നിന്നും എന്തെങ്കിലും അപേക്ഷ അയച്ചിട്ടുണ്ടോ?

MR. I. C. CHACKO. ആ അപേക്ഷയുടെ ഫലമായിട്ടാണ് ഇതു ചെയ്തിരിക്കുന്നതു്.

MR. S. KRISHNA AIYAR: May I know whether the P. W. D. is convinced of the urgent necessity for water supply for the town of Kottayam?

MR. I. C. CHACKO: Yes, Sir.

MR. S. KRISHNA AIYAR: May I know how long it has been engaging the attention of the Department?

MR. I. C. CHACKO: For three or four years.

MR. S. KRISHNA AIYAR: May I know whether the Kottayam Municipality has offered to contribute a portion of the expenses?

MR. I. C. CHACKO: Yes, Sir, but the offer came too late to take trial borings.

MR. S. KRISHNA AIYAR: May I know what time will take for the Department to have a scheme for the purpose?

MR. I. C. CHACKO: It cannot be definitely stated now.

Village Roads in North Travancore.

257. ***MR. P. M. VARGHESE:** Will the Government be pleased to state whether they are aware that many of the village roads in North Travancore suffer from complete neglect in the matter of their maintenance?

MR. I. C. CHACKO: No.

Conversion of Village lane between Kottuvally and Koonemmavoo.

258. ***MR. E. K. MADHAVAN:** Will the Government be pleased to state whether they have decided to take up the work for the conversion of the Village lane between Kottuvally and Koonemmavoo Market into a cartable road?

MR. I. C. CHACKO: No.

Mohamma-Thannirmukkam Road.

259. ***MR. M. L. JANARDANAN PILLAI** (*Nominated*): Will the Government be pleased to state:

(*a*) the amount spent so far for the Mohamma-Thannirmukkam road;

(*b*) the length of the road; and

(*c*) whether the above road is fit for wheeled traffic throughout the whole length?

MR. I. C. CHACKO: (*a*) Rs. 18,408.

(*b*) 5 miles and 6 furlongs.

(*c*) Yes, except for a length of 200 ft. at the Mohamma road.

MR. M. L. JANARDHANAN PILLAI: In view of the fact that only 200 ft. has to be completed, may I ask whether it will be completed in 1120?

MR. I. C. CHACKO: It is expected to be completed. The delay is due to land acquisition.

Roads in the Parur and Kunnatnad taluks

260. *MR P. O. THOMAS (*Kunnatnad* cum *Parur*) : Will the Government be pleased to state :

(*a*) whether the Government were approached for assuming the roads constructed by the people in Puliyanam in Parakadavu pakuthi in Parur taluk and in Mookannur in Kothakulangara pakuthi in Kunnatnad taluk ; and

(*b*) if so, what the Government have done in the matter ?

MR. I. C. CHACKO : (*a*) Yes.

(*b*) A portion of the work is completed.

MR. P. O. THOMAS : May I know when the Government were first approached regarding this matter ?

MR. I. C. CHACKO : I have not got the exact date with me now.

MR. P. O. THOMAS : Will it be at least four years ago ?

MR. I. C. CHACKO : It may be three or four years.

MR. P. O. THOMAS : May I know why so much time is being taken for this ?

MR. I. C. CHACKO : Sir, an estimate has already been prepared and a part of the work has already been done.

MR. P. O. THOMAS : When there was no necessity for preparing an estimate, what was the delay due to ?

MR. I. C. CHACKO : The ryots do only the earth-work. We have to do all the bridges and culverts which are under construction now.

MR. P. O. THOMAS : When can the people normally expect the completion of the work ?

MR. I. C. CHACKO : I cannot say definitely when it will be completed.

Maintenance of certain roads.

261. *MR. K. BALAKRISHNA MENON : Will the Government be pleased to state whether they are aware of the fact that the maintenance of the following roads is not properly conducted :

(1) Ankamali-Manjapara road ;
(2) Kaladi-Manjapara road ;
(3) Thadikkal-Pallupatta road ;
(4) Perandoor-Kaloor road ;
(5) Edappilly-Perandoor road ;
(6) Edappilly-Muvattupuzhai road ; and
(7) Kizhakkambalam-Alwaye road ?

MR. I. C. CHACKO : No. All the roads are maintained consistently with the grants available.

Appendix I.

Vide Answer to Question No. 248.

Name of road inspected.	Dates of Inspection			
	By Chief Engineer.	Division Officer.	Sub Division Officer.	
1. Vennikulam-Ezhumattoor road (Bastow Road 1st section)...	...	18-8-117 28-10-117 20-12-117 20-8-118 9-3-119 22-3-119 9-9-119	26-[illegible]-118 23-3-119 1-9-119	
2. Vennikulam-Mallapally road (Portion of S. H. V. Road) ...	9-4-118 24-5-118	do.	22-2-117 14-4-117 9-6-117 9-7-117 1-8-117	6-9-117 22-9-117 11-11-117 24-12-118 23-3-119 28-9-119
3. Vennikulam-Ranni Road ...	9-4-118 24-5-118	do. and 29-12-119	22-2-117 14-4-117 9-6-117 9-7-117 1-8-117 22-9-117	26-3-118 9-4-118 11-11-118 28-12-118 23-3-119 21-8-119 10-10-119
4. Ezhumattur-Cherukolepuzha road (Portion of P. C. Road from 6/1 to 14/3) ...	...	do. do.	22-2-117 22-9-117 11-11-117 20-8-118 11-11-118 28-12-118	23-3-119 1-9-119 9-9-119 21-9-119 10-10-119

Appendix II.

Vide Answer to Question No. 254.

Statement of budgeted works in Thiruvalla taluk in 1119.

Serial No.	Budget item.	Name of work.	Budget amount.
		PART I OF THE BUDGET.	Rs.
1	365	Opening Kuttapuzha canal in Thiruvalla taluk ...	12,000
2	368	Improvements to thodus in Kizhakkumbhagom and Kadapra pakuthies in Thiruvalla ...	1,000
3	370	Erosion of the Northern bank of Pamba river below Eraputha bridge. Constructing a groyne below Pattathil thodu in Thiruvanmandoor pakuthi, Thiruvalla taluk ...	2,000
4	372	Improvements to Ettupara thodu in Kaviyoor pakuthi, Thiruvalla taluk ...	1,000
5	374	Improvements to Polachira in Kaviyoor pakuthi, Thiruvalla Taluk ...	1,500
6	377	Constructing a sluice at Pattathil thodu in Thiruvanmandoor pakuthi, Thiruvalla taluk ...	1,500
7	380	Clearing Kozhithodu canal in Aranmula pakuthi, Thiruvalla taluk ...	2,000
8	384	Improvements to Ramanchira in Pandalam Vadakkekara pakuthi, Thiruvalla taluk ...	1,500
9	389	Irrigation facilities to the lands lying on the side of Moozhichal-Illimala canal. Improvements to the canal leading from the Edakadavu in Pamba river to Moozhichal Illimala canal in Pandanad pákuthi ...	1,500
10	385	Improvements to the irrigation facilities D. R. pitching the right bank of Atchencoil river near Keecheril padom in Puliyoor pakuthi ...	5,000
11	391	Improvements to the Pachitha Punja in S. No. 46/10 in Vadakkekara pakuthi, Thiruvalla taluk ...	800
		Total ...	29,800
		PART II OF THE BUDGET.	
12	287	Paddy possibilities of Central Travancore. Opening a thodu from Valakathil chal in S. No. 6/1 in A Thottapuzhasseri pakuthi, Thiruvalla taluk ...	1,000

APPENDIX II—(*contd.*)

Serial No.	Budget item.	Name of work.	Budget amount.
		PART II OF THE BUDGET—(contd.)	Rs.
13	288	Paddy possibilities of Improving Thaenadu thodu in Kavumbhagom pakuthi, do. ...	800
14	289	Do. Provision of 3 culverts in Peringara pakuthi ...	800
15	291	Improvements to Manthira thodu in Peringara pakuthi ...	800
16	295	Closing breaches in the thodu leading to Kidanganoor punja in Pandalam Vadakkekara pakuthi, Thiruvalla taluk ...	800
17	298	Constructing a cross bar in Chakkalachira across the newly opened drainage channel Kannankulangara in Venmony pakuthi, Thiruvalla taluk ...	200
18	300	Improvements to Pannamala chira in S. No. 159/1 of Aranmula pakuthi ...	1,500
19	307	Improvements to Chengaipadom punja in Venmony pakuthi, Thiruvalla taluk ...	800
20	308	Improvements to the thodu from Muthalakuzhi chal to Kollakadavu river in Puliyoor pakuthi, Thiruvalla taluk ...	500
		Total ...	6,700

Appendix III.

Vide Answer to Question No. 255

1. Improvements to Patani and Panchali flood banks of Parakadavu pakuthi, Parur taluk.
2. Improvements to Karichira in S. No. 297/1 of Airoor pakuthi, Parur taluk.
3. Improvements to Aiyanchira in S. No. 521/1 in Vengola pakuthi, Kunnathunad taluk.
4. Improvements to tanks in S. No. 89/6 of Cheranalloor pakuthi.

UNSTARRED QUESTION AND ANSWER.

Medical aid.

22. **MR. S. MUTHUKARUPPA PILLAI** (*Tovala cum Agastiswaram*): Will the Government be pleased to state whether they are aware:

(*a*) that on account of the prevailing abnormal economic condition the sick and death rates in the villages are fast rising;

(*b*) that sufficient medical aid is not now available to them on account also of the abnormal rise in the prices of medicines, medical men's fees and their motor car fares: and

(*c*) with a view to give people in the villages more relief will the Government be pleased to attract more medical men to settle in villages by promising them more liberal grants and also help private practitioners in general by making some of the important medicines including quinine available to them for control prices through Government agency?

DR. S. JOHN: (*a*) and (*b*) No.

(*c*) The scheme of Rural Medical Relief has already been inaugurated by Government.

ADJOURNMENT MOTION RE: ARRESTS AT QUILON.

PRESIDENT: I have received notice of an adjournment motion to consider a definite matter of urgent public importance, namely, the conduct of the Government in having caused the arrests of labour workers at Quilon and consequent unrest in the country.

Before I go further into the matter, I want to know what arrests the honourable member is referring to?

MR. K. K. CHELLAPPAN PILLAI: I am referring to the arrests of some factory workers in Quilon.

PRESIDENT: When?

MR. K. K. CHELLAPPAN PILLAI: Within a week's time.

PRESIDENT: It is not a matter of urgent public importance.

MR. K. K. CHELLAPPAN PILLAI: Yesterday also some people were arrested including Mr. Sreekantan Nair, the President of the Quilon Factory Workers' Union.

PRESIDENT: The question before the House is whether the honourable member has the leave of the House.

MR. T. P. VELAYUDHAN PILLAI: May I know whether it is *sub-judice*?

PRESIDENT: I do not know at all. I do not know whether the arrest was under the Defence of Travancore Rules or under the ordinary law. All that I know is that I met certain labour leaders yesterday, and one of them is in the House today. I thought we arrived at a fairly satisfactory result as a consequence of our discussions and I thought that there was nothing more to be done. About a week ago consequent upon a speech by one Divakaran in which he referred to blood shed and all that, certain arrests were made. I am not aware of any other arrest.

MR. K.K. CHELLAPPAN PILLAI: I may bring to the attention of the House that about a week ago some two or three labour workers were arrested, and some others for shouting "*inquilab zindabad*" on some previous days. But yesterday, Mr. Srikantan Nair, the President of the Factory Worker's Union was arrested and some others also were arrested: The Secretary of the Kisan Sabha is due to be arrested for shouting "*inquilab zindabad*"

PRESIDENT: Government have ordered that they will not allow the shouting of, "*inquilab zindabad*" inside the State. Those who disobey that order will be arrested and sent to jail.

MR. K. K. CHEELLAPPAN PILLAI: Mr. Srikantan Nair did not shout like that.

PRESIDENT: The words "*inquilab zindabad*" in ordinary civilized language means long live revolution. That is a cry which will not be allowed to be shouted in the streets and roads of Travancore. Government arrived at that concluion some six years ago and have been saying that over and over again.

MR. K. K. CHELLAPPAN PILLAI: These people were not arrested for shouting "*inquilab zindabad*".

PRESIDENT: What is the idea of the honourable member?

MR. K. K. CHELLAPPAN PILLAI These people were not arrested because they shouted "*inquilab zindabad*" As a conseqence of their arrest there is unrest among the labourers.

PRESIDENT: The question is whether the honourablo member has the leave of the House to move the motion.

MR. K. G. KUNJUKRISHNA PILLAI (*Legal Remembrancer to Government*): Sir, I object to it.

The motion was put and lost.

LEGISLATIVE BUSINESS.

AMENDMENT TO ORDER XXVIII OF THE CIVIL PROCEDURE CODE 1100.

MR. K. G. KUNJUKRISHNA PILLAI: Sir, I rise to present for the consideration of the House the proposed amendment to an Order under the Civil Procedure Code. I may, at the outset, point out for the information of the Honourable members that the procedure to be adopted in cases were amendments are tabled to Orders or Rules under the Civil Procedure Code is different from the procedure to be adopted in the case of amendments to other Bills. In the case of the amendments to the rules of the Civil Procedure Code, Sections 92 to 96 of the Civil Procedure Code have laid down a certain procedure. Under that procedure there is a rule which says that the Rule Committee shall first either draft rules or go through the rules and then the rules be finally approved by the High Court. Then it is sent to

the Legislature for its approval. Section 94 of the Civil Procedure Code psovides that such amendments may be considreed in the same manner as the report of a Select Committee sent up to the House. Therefore, in effect, it comes up as a Bill for a second reading. I therefore move that the Civil Procedure Code (Amendment) Bill be taken into consideration.

RAJYASEVAPRAVINA G. PARAMESWARAN PILLAI (*Chief Secretary to Government*): I second it. The motion was put and carried.

MR. K. G. KUNJU KRISHNA PILLAI: This amendment is proposed to be made to Order XXVIII of the Civil Procedure Code. Order XXVIII of the Civil Procedure Code relates to the procedure in cases specially applicable to soldiers serving under the Crown. Order XXVIII relates to suits by oragainst military men. Honourable members will see that these rules relate only to officers or soldiers really serving the Government in a military capacity. The amendment is proposed to enable the soldier-and there are a large number of them-who serve His Majesty's Government as soldiers in the Indian Army. Difficulties have arisen in their cases when they had to defend themselves or file suits and therefore it was thought necessary that in such cases these amendments would enable the difficulties being removed. The amendment proposed is as follows;—

> "2A. The provisions of Rules 1 and 2 shall apply *mutatis mutandis* to any Indian Soldier as defined in the Indian Soldiers (Litigation) Act, 1116, and to any member of the Indian Navy".

This will enable a soldier to defend a suit or file a suit in a court of justice without being personally present in the Courts.

MR. V. SREEDHARAN PILLAI: I support the proposed amendment. Order XXVIII of the Civil Procedure Code relates to suits by or against soldiers. There is provison for an appeal to be preferred against a soldier in service. The proposed amendment has enlarged the scope of the Bill by including many more persons. I wish to invite the attention of the House to the fact that there is no provision to protect the properties of soldiers who are taken by the enemy. They cannot defend a suit in this country. There are many persons in enemy hands and they have got properties in the State. If trespasses are made on properties belonging to soldiers who cannot file a suit, there are attornies or mukthiars.

PRESIDENT: Does the honourable member refer to those in enemy countries?

MR. V. SREEDHARAN PILLAI: and persons incapable.

PRESIDENT: If the honourable member is referring to those in enemy countries, how are we to know that they are really not working for the enemies?

MR. V. SREEDHARAN PILLAI: They have properties in the State. What is the protection that can be made with regard to their properties inside the State?

PRESIDENT: There is special provision for it.

MR. K. G. KUNJUKRISHNA PILLAI: I may at once say that this difficulty was felt and a Bill has been framed and is under consideration of Government. It will be promulgated very shortly when the difficulty pointed out by the honourable member will be solved.

MR. V. SREEDHARAN PILLAI: I wanted only to point out the difficulties of those persons who cannot file a suit.

PRESIDENT: There is a piece of legislation in regard to that matter under contemplation.

MR. K. G. KUNJUKRISHNA PILLAI: I move that the Travancore Civil Procedure Code (Amendment) Bill be passed.

MR. S. NARAYANA AIYAR (*Financial Secretary to Government*): I second it.

The motion was put and carried, and the amendment was passed.

THE TRAVANCORE WORKMEN'S COMPENSATION ACT (AMENDMENT) BILL.

MR. K. G. KUNJUKRISHNA PILLAI: Sir, I rise to introduce the Travancore Workmen's Compensation Act (Amendment) Bill. I move that the Bill be read in the Assembly.

MR. S. NARAYANA AIYAR: I second it.

MR. K. G. KUNJUKRISHNA PILLAI: Sir, this is a very short Bill. The Travancore Workmen's Compensation Act is based upon the British Indian Act of 1923. In that Act, among the definition of words, there is a definition defining monthly wages. These words were subjected to the interpretation that unless the workman who is employed is employed on a monthly basis he would not get the benefit of compensation. That difficulty arose in British India. To make the position clear and to benefit those who are not employed on a monthly basis, an Amendment was passed in British India. It is proposed to incorporate that amendment to section 5 of the Travancore Workmen's Compensation Act here also. The Amendment proposed is—

> (a) "For the words' "For the purposes of this Act the monthly wages of a workman shall be calculated" the following shall be substituted, namely:-
> "In this Act and for the purposes thereof the expression monthly wages' means the amount of wages deemed to be payable for a month's service (whether the wages are payable by the month or by whatever other period or at piece rates), and calculated"

The words in quotation will show that it is an improvement on the existing Act, and I commend it to the consideration of the House.

MR. P. N. KRISHNA PILLAI: (Co-opted) I have very great pleasure in supporting this amendment. It was passed in the Central Assembly in 1939. The definition of the word "workmen" is such that any anyone receiving up to the maximum wage of Rs, 300 a month comes within the ambit of the Act. The Madras High Court interpreted that anybody receiving weekly wage or daily wage does not get the benefit of compensation provided under the Act whereas the Bombay High

Court interpreted that anybody receiving weekly or daily wage will also get the benefit contemplated by the Act. This Amendment is in support of the Bombay decision.

While supporting this particular amendment I may be permitted to point out that this sort of piece-meal amendment legislation is not sufficient. The whole of the Workmen's Compensation Act has to be amended in such a way that it will be made applicable to many concerns to which it is not applicable because of the defects of the various definitions in the Act. In British India there is a Committee appointed which is going through the whole question of labour legislation and it has submitted a questionnaire with a view to amend the whole Act. I may not be in order if I point out the various amendments that should be made. While I welcome this amendment, I may be permitted to point out that we want a thorough overhauling of the Act. I may also be permitted to point out that there is very inordinate delay in the disbursement of compensation. Some suitable machinery may be found out to see that compensation is given without any delay whatsoever. With these remarks, I support the amendment.

MR. E. I. CHACKO: Sir, about the inordinate delay referred to by the honourable member, under the provisions of the Act, investigations have to be made first about the claimants and dependants of the deceased. Further some employees dispute their liability to pay—This has to be fixed after protracted correspondence some times. That will require time. If there is dispute about the heirship also the compensation amount has got to be deposited. After the amount is so deposited, the revenue officers have to be requested to verify the claims of the dependants concerned. That necessarily takes some time and the Commissioner for Workmen's Compensation is also to act as a sort of guardian for the dependants, particularly when there are minors. The minors are under a legal disability. So, unencumbered property has to be purchased in their name for the benefit of the minors. Otherwise, the benefit that is intended will remain unconferred. These are matters which require some time, and the delay is therefore unavoidable.

***MR. P. N. KRISHNA PILLAI**: May I know from the honourable member the number of claims that are now pending with the Commissioner for Workmen's Compensation, for disposal.

MR. E. I. CHACKO: There are about a dozen claims, and the Government, at my request, have issued stringent instructions to the Revenue officers to expedite the disposal of all the claims with them. I therefore expect that there will be much greater speed in the disposal of these cases hereafter.

PRESIDENT: I may add that the Government have instructed Revenue officers that they should offer an explanation if the delay entailed is over a week.

MR. M. L. JANARDANA PILLAI: Sir, I wish to say a few words. In accordance with the instructions issued to the employers by the Dewan-President that such cases should be expedited, I may say that those employers who have effected insurance under the Workmen's Compensation Act have made interim payments, and the final claim is ultimately settled by the Insurance Company. In the meanwhile, the workman and his dependants are considerably helped by such interim payments made to him, which are a set-off only against final payments. So, to this extent, the difficulty has been considerably mitigated.

The question that the Bill be read in the Assembly was put and carried.

TITLE OF THE BILL.

SECRETARY: The title of the Bill shall be "the Travancore Workmen's Compensation Act (Amendment) Bill.

MR. K. G. KUNJUKRISHNA PILLAI: I move that the Bill be taken into consideration, and I pray that Standing Order 32 be waived for the purpose.

The motion was put and carried. The standing Order was suspended.

CLAUSES 1 AND 2.

The question that clauses 1 and 2 stand part of the Bill was put and carried.

Clauses 1 and 2 were added to the Bill.

TITLE AND PREAMBLE.

The question that the title and preamble stand part of the Bill was put and carried.

The title and preamble were added to the Bill.

MR. K. G. KUNJUKRISHNA PILLAI: I move that in clause 1 (i) instead of the figures 111—— the figures 1120 be substituted.

MR. S. NARAYANA AIYAR: I second it.

The amendment was put and carried.

MR. K. G. KUNJUKRISHNA PILLAI: I move that the Bill be passed.

MR. S. NARAYANA AIYAR: I second it.

The motion was put and carried.

The Bill was passed.

THE TRAVANCORE DISTRICT MUNICIPALITIES ACT (AMENDMENT) BILL.

MR. K. G. KUNJUKRISHNA PILLAI: Sir, I rise to present the Travancore District Municipalities Act (Amendment) Bill to the House. I move that the Bill be read in the Assembly.

MR. S. NARAYANA AIYAR: I second it.

The question that the Bill be read in the Assembly was put and carried.

SECRETARY: The title of the Bill shall be "the Travancore District Municipalities Act (Amendment) Bill".

MR. K. G. KUNJUKRISHNA PILLAI: This Bill is intended to remove an anomaly in the District Municipalities Act, and to bring it into conformity with the City Municipal Act for a specific purpose which is mentioned in the Statement of Objects and Reasons.

I move that the Bill be taken into consideration and I pray that Standing Order 32 be waived for that purpose.

The motion was put and carried. The Standing Order was suspended.

CLAUSES 1 TO 3.

The question that Clauses 1 to 3 stand part of the Bill was put and carried.

Clauses 1 to 3 were added to the Bill.

TITLE AND PREAMBLE.

The question that the title and preamble stand part of the Bill was put and carried.

The title and preamble were added to the Bill.

I move that in clause 1 (i) instead of the figures "111" the figures "1120" be substituted.

MR. S. NARAYANA AIYAR: I second it.

The amendment was put and carried.

MR. K. G. KUNJUKRISHNA PILLAI: I move that the Bill be passed.

MR. S. NARAYANA AIYAR: I second it.

The motion was put and carried.

The Bill was passed.

THE TRAVANCORE PROVIDENT FUNDS ACT (AMENDMENT) BILL.

MR. K. G. KUNJUKRISHNA PILLAI: Sir, I rise to introduce the Travancore Provident Funds Act (Amendment) Bill. I move that the Bill be read in the Assembly.

MR. S. NARAYANA AIYAR: I second it.

The question that the Bill be read in the Assembly was put and carried.

SECRETARY: The title of the Bill shall be "The Travancore Provident Funds Act (Amendment) Bill".

MR. K. G. KUNJUKRISHNA PILLAI: As stated in the Statement of Objects and Reasons, it will be seen that the Provident Fund which is intended to be a provision for the benefit of a person and his family when everything fails, is being resorted to for a different end. There are two exemptions in the Provident Funds Act. One is that money may be withdrawn from the Provident Fund for a temporary purpose and the other for paying premia to the insurance companies. It has been found that if money is drawn for the purpose of paying premia for insurance, a large number of difficulties arises. For one thing, the money drawn out of the Funds may not be sufficient for paying the premia. Supposing the premium is paid for one particular instalment and not paid for a subsequent instalment, the money drawn out of the Fund is also lost. And most of the Provident Funds, particularly, the Government Provident Fund Rules, do not provide for adequate control. If moneys are allowed to be drawn out of the Fund, for payment of premia, the Government will have to permit the person to

[Mr. K. G. Kunjukrishna Pillai.]

withdraw money for another occasion and also see that further instalments shall be paid regularly. To avoid all these difficulties, it is proposed to remove that clause which allows Provident Fund moneys to be drawn for payment of premia to insurance companies.

In view of the absence of any amendment, I pray that Standing Order 32 be suspended, and that the Bill be taken into consideration.

The Standing Order was suspended, and the motion was put and carried.

CLAUSES 1 AND 2.

The question that clauses 1 and 2 stand part of the Bill was put to vote and carried.

Clauses 1 and 2 were added to the Bill.

TITLE AND PREAMBLE.

The question that the title and preamble stand part of the Bill was put and carried.

MR. K. G. KUNJUKRISHNA PILLAI: I move that in clause 1 (i) instead of the figures "1119" the figures "1120" be substituted.

MR. S. NARAYANA AIYAR: I second it.

The motion was put and carried.

MR. K. G. KUNJUKRISHNA PILLAI: I move that the Bill be passed.

MR. S. NARAYANA AIYAR: I second it.

The motion was put and carried.

The Bill was passed.

THE CIVIL PROCEDURE CODE (AMENDMENT) BILL.

MR. K. G. KUNJUKRISHNA PILLAI: Sir, I rise to introduce the Travancore Civil Procedure Code (Amendment) Bill. I move that the Bill be read in the Assembly.

The question that the Bill be read in the Assembly was put and carried.

MR. S. NARAYANA AIYAR: I second it.

SECRETARY: The title of the Bill shall be "The Civil Procedure Code (Amendment) Bill".

MR. K. G. KUNJUKRISHNA PILLAI: As mentioned in the Statement of Objects and Reasons, the House will see that the object of this amendment is merely by way abundant caution. There is a provision in the Provident Funds Act which exempts Funds from attachment in certain cases, but the same exemption has not been made in the Civil Procedure Code. It has been found that in a particular case a learned Munsiff issued an attachment order on the Provident Fund of a particular party. It has been found in British India that under section 60 of the British Indian Civil Procedure Code an exemption has been made. Therefore it is proposed that the same exemption be introduced in section 52 of the Civil Procedure Code here which will exempt Provident Funds from attachment in certain cases. The exemption, as I already stated, is contained in the Provident Funds Act also.

In the absence of any amendments I pray that Standing Order 32 be suspended. Standing Order 32 was suspended.

CLAUSES 1 AND 2.

The question that Clauses 1 and 2 stand part of the Bill was put and carried.

Clauses 1 and 2 were added to the Bill.

TITLE AND PREAMBLE.

The question that the title and preamble stand part of the Bill was put and carried.

The title and preamble were added to the Bill.

MR. K. G. KUNJUKRISHNA PILLAI: I move that in clause 1 (i) instead of the figures "1119", the figures "1120" be substituted.

MR. S. NARAYANA AIYAR: I second it.

The amendment was put and carried.

MR. K. G. KUNJUKRISHNA PILLAI: I move that the Bill be passed.

MR. S. NARAYANA AIYAR: I second it.

The motion was put and carried.

The Bill was passed.

THE TRAVANCORE TOWN PLANNING ACT (AMENDMENT) BILL.

MR. K. G. KUNJUKRISHNA PILLAI: Sir, I rise to introduce the Travancore Town Planning Act (Amendment) Bill.

MR. S. NARAYANA AIYAR: I second it.

MR. K. G. KUNJUKRISHNA PILLAI: I move that the Bill be read in the Assembly.

The motion that the Bill be read in the Assembly was put and carried.

SECRETARY: The title of the Bill shall be "the Travancore Town Planning Act (Amendment) Bill."

MR. K. G. KUNJUKRISHNA PILLAI: As observed in the Statement of Objects and Reasons, this Bill also is by way of abundant caution. Under 15 of the Act, a proposal is made for making a Town Planning Scheme either by the Municipal or some other authority. The owners of the locality included in the area in the scheme or in the proposed scheme shall not do anything with regard to property, without permission. This works great hardships and therefore both from the public and the concerned authorities there have been proposals for the amendment of this Act so that people in the possession of properties included in the Town Planning area may be allowed to develop their lands in the interval subject to certain restrictions. Such development is allowed in England by the Act of 1933, and provision is also made in the Bombay Town Planning Act for the purpose. The present amendment has been taken mainly from the Bombay Act and it will enable persons in possession of properties included in the area to carry on improvements under certain restrictions and under appropriate

[Mr. Puliyoor T. P. Velayudhan Pillai.]

sanctions from the proper authority. I move that the Bill be referred to a Select Committee consisting of the following persons :—

1. *Rajyasevanirata* S. Chattanatha Karayalar
2. Mr. C. S. Lakshmana Aiyar
3. Mr. Kadakkavoor P. Madhavan
4. Mr. P. S. Nataraja Pillai
5. Srimathy T. Narayani Amma
6. Mr. A. Nesamony
7. Mr. V. Sreedharan Pillai
8. Mr. M. K. Mahomed

The motion was put and carried.

THE TRAVANCORE TRADE BOARDS BILL.

MR. K. G. KUNJUKRISHNA PILLAI: Sir, I rise to introduce the Travancore Trade Boards Bill. I move that the Bill be read in the Assembly.

MR. S. NARAYANA AIYAR: I second it.

MR. K. G. KUNJUKRISHNA PILLAI: As has been explained in the Statement of Objects and Reasons, this Bill has been necessitated by the conclusions of the Board constituted by the Government to investigate the conditions of labour in the State. Those conclusions have been supported by the business interests in Alleppey and also by accredited labour leaders. The main object of the Bill is to form a Committee or a constitution under which wages in a particular trade or in a particular branch of trade or in particular classes of trade will be fixed from time to time according to the conditions then prevailing in the trade. Provision is also made for the constitution and procedure of the Board and also for appeals to Government and other allied matters. This procedure, I may add, has been adopted no where else in India. I have, therefore, drawn the Bill on the lines of the Act in England. There are two Acts in England, of the year 1909 and 1918. I have drawn, as I said before, mainly on the English Acts and I hope the Bill will commend itself to this House.

MR. PULIYOOR T. P. VELAYUDHAN PILLAI: I have very great pleasure in supporting the principle of the Travancore Trade Boards Bill especially on account of the fact that we are not copying this piece of legislation at least from British India. It is significant to note that even though more than 35 years have elapsed after the promulgation of the Trade Boards Act in Great Britan, similar enactments have not yet been passed in British India. This fact is, therefore, likely to create suspicion in our minds as to whether it is not premature for us to embark upon such legislation at present.

Sir, the Board constituted by Government to enquire into and investigate the labour conditions in Travancore have recommended to Government the desirability of the constitution of Trade Boards in Travancore. Similarly several Labour Associations and Unions also

have urged upon Government the necessity of a law for the purpose. I have carefully gone through the provisions contained in the Bill and I am sure that this Bill will go a great way to put a stop to the labour disputes which are of frequent occurrence in Travancore, due to the dissatisfaction of the labourers which very often results in strikes and lockouts. Judged from the existence and scope of several labour legislations in Travancore, I think it will only be in the fitness of things if we enact the Trade Boards Act as well in Travancore. The important provisions contained in the Bill are (1) the provision for the establishment and constitution of Trade Boards, (2) provision for the fixation, cancellation and variation of the minimum rates of wages for workers engaged in such trades, (3) provision for punishment for the violation of such laws and (4) provision for the dissolution of trade boards once established and so forth. When a trade board is dissolved the functions and duties of such board will be entrusted to such authority as Government may appoint in this behalf. With these observations, I support the principle of the Travancore Trade Boards Bill.

MR. J. E. A. PEREIRA (*Commerce and Industry, South*): Sir, I most heartily welcome the general principle underlying this Bill. Both in my representative capacity as well as in my individual capacity, as I happen to employ workers between 500 and 2000 per diem, and even more as and when the occasion demands, I agree with the Bill before the House. As I understand, the main object of the Bill is to regulate the wages. We are passing through very hard and uncertain times and as such one would like to be advised by a Committee as regards the criterion for standard wages. No capitalist is worth the name, if he does not care for the welfare of labour. Personally, I am prepared to give a square deal to the labourer and as such I welcome this measure. I find the Board is empowered to make necessary changes as and when required. That is to say, to increase, reduce, amend or alter the standard of wages and as such, it is a wholesome provision both for labourers and employers. I welcome the Bill for another pleasing feature in that we are giving lead in this matter also as was done in very many directions. With these words, I support the general principle of the Bill.

MR. K. K. CHELLAPPAN PILLAI: Sir, in rising to support the introduction of a Bill of this kind I may just say a few points which may be necessary so that the purpose of the Bill may not be defeated. I know that this Bill is for fixing the wages and thereby improving the conditions of labour. According to the Bill, the definition of "trade" does not include the case of an agricultural labourer, except one engaged in plantations. I urge on the Government to see that this class of agricultural labour is included, because, the big land owners who cultivate paddy and other things employ labour numbering so many and therefore their condition also must be looked into. Then the Board is to consist of a Chairman and members, two from among the employer community and two to represent the workers and their trade. They are to be nominated by Government, but in my opinion, it will be better if they are elected by the labour unions or labour workers.

PRESIDENT: Are there not many Labour Unions in the State?

MR. K. K. CHELLAPPAN PILLAI: There may be many Labour Unions but in each place a Board may be constituted and the members of the Board may be elected. That is my suggestion. In the matter of varying the rates, employer alone is put as the authority to move the Board. That is not a wholesome provision.

MR. K. G. KUNJUKRISHNA PILLAI: In certain cases it is provided that a labourer can move the board for varying his wages.

MR. K. K. CHELLAPPAN PILLAI: I beg to submit that the Board may be empowered to consider any representation from any labourer for changing his rates. With regard to wages—

MR. K. G. KUNJUKRISHNA PILLAI: In certain specific cases an employer has been given a special concession to move the Board. Generally speaking, anybody can move the Board for a change in wages and the Board is competent to consider that.

MR. K. K. CHELLAPPAN PILLAI: What I want to say is that a labourer should be given an opportunity to move the Board in respect of wages. With regard to prosecutions, a more salutary provision is needed to safeguard the interest of the labourers. Summary trials alone will suit the labourer, because he cannot usually benefit out of the protracted proceedings of the Courts, while the employer is placed at a very advantageous position at present.

MR. T. K. NARAYANA PILLAI (*Neyyattinkara* cum *Trivandrum*): Sir, on behalf of my party I accept the general principle contained in the Bill and since the matter will be discussed at length in the select committee, I do not propose to discuss the matter now.

RAJYASEVANIRATA S. CHATTANATHA KARAYALAR (*Pattanapuram* cum *Shencotta*): Sir, I rise to support the general principle of the Bill. The Legal Remembrancer said at the very outset that this Bill is drawn on the lines of the British Trade Boards Acts of 1909 and 1918. Sir, it will, I think, be useful to bear in mind the history and the scope of these Acts in England. Sir, the scope of the original Act of 1909 was restricted only to four specified trades and later on by the Act of 1918, the scope was enlarged to make it applicable to certain other specified trades. I shall point out what the nature of the trades are and why the Acts were intended to be made applicable to them. The trades are aerated waters, boot polish, button manufacture, boot and other repairs, grocery, provisions etc. It is trades of this nature, unorganised small-scale trades that were brought within the ambit of the British legislation. It is therefore very necessary to keep these facts in mind; in order to judge the nature of the trades to which we should make our Bill applicable. I am mentioning this for the purpose of drawing the attention of the House to the fact that the scope of the Bill as placed before the House is much wider than that of the British Acts. Why I am saying this is because I know that the Bill is intended to be made applicable to big industrial establishments and plantations also. These are not the kinds of trades to which the British Acts apply. That is a point which I want to impress upon this House.

Then, coming to the provisions of this Bill, clause 6 of the Bill is the central provision round which the whole machinery of the Bill revolves. This provides for the compulsory fixation of "a general minimum time rate" and that the Board may at their discretion fix what are called "a general minimum piece rate", "a guaranteed time rate" and "an over-time rate". Sir, this is the main provision in this Bill. Let us just consider whether it is necessary to have a provision like this. I ask whether any trade disputes have arisen in Travancore because of the nonfixation of a minimum rate. Mr. Velayudhan Pillai stated that labour strikes and lockouts have all been caused by the want of such a provision. But as I understand the situation, it appears that trade disputes have occurred chiefly because of an agitation on the part of the workers that the standard of wages was not as high as they expected. If any dispute has arisen on the question of a minimum wage, I can understand that a Bill of this nature is necessary. So far as I know, no case has been set up or made out that any dispute has arisen on account of nonfixation of a minimum wage. I am of the opinion therefore that this Bill is unnecessary. I do not for a moment oppose the principle of the Bill. But in the interest of harmony between employer and worker, I have no objection to the principle of the Bill being accepted. My own view is that no dispute has arisen for want of such a provision so far. It is these points that I want to urge on the attention of the House in connection with this Bill.

MR. V. GANGADHARAN NAIR (*Quilon cum Kottarakara*): Sir, I have great pleasure to lend my support to this Bill. The proposed Bill is the most progressive legislation in the whole labour world in India. In view of the large number of trade disputes arising on account of the demand for increase of wages on the part of the workers, I think an institution of a wage fixing machinery as envisaged in the Bill is an essential thing for this country. There is demand on the part of workers for fixing the minimum wages and so it is only in the fitness of things that the Bill has envisaged to institute a wage fixing machinery like this. With these words I support the principle of the Bill.

MR. K. C. KARUNAKARAN (*Nominated*): I rise to support the principle of the Bill. It is really gratifying to note that Travancore takes such a liberal attitude towards labour legislation.

Although Great Britain in 1894 was more progressive and advanced in industry and commerce and in all the social legislations, the lead for introduction of legislation of trade boards and the establishment of trade boards was taken up by the colony of Victoria in Australia. Great Britain took fifteen years for putting into the Statute Book this legislation with regard to the establishment of trade boards. Even then, it was meant only for the tailoring industry where there were exceptionally very low wages, and it took another ten years for Great Britain, the most advanced industrial country in the world, to introduce legislation to cover other big industries. I am glad that as in the case of the Maternity Act, Travancore has taken a very big jump over the other advanced places in British India and other Indian States, in legislating

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for these trade boards in Travancore. It is true as the Legal Remembrancer said that the representatives of the employers and the employees, separately and unitedly, approached the Government for legislating for the establishment of trade boards; but on one condition, which condition has been totally forgotten in getting up this Bill. What we said was that trade boards must be established for putting an end to the trade disputes in the country. We never said that the Government should make any differentiation between the industries in the same industry. According to this Bill under the definition clause it is given that a factory means a factory as defined in clause 'j' of Section 2 of the Travancore Factories Act VIII of 1114. Under this definition only factories where twenty and more persons are employed with some kind of power, are included. But if you study the question well, you will see that especially after that voluntary institution, I mean the Industrial Relations Committee, came into existence, no disputes have taken place in the factories, coming under this definition. All these disputes, including even the ones which are occurring now, are taking place in factories which do not come within the purview of this Bill. Sir, what I would therefore point out is that it is with this idea that employers and employees jointly recommended for the introduction of this Bill. So I say that the scope of this Bill is very limited and I wish the Government includes all the factories for the purpose of the Wage Boards Act.

Then another important point to which I want to draw the attention of Government is as my friend Mr. Chellappan Pillai pointed out, and if my memory serves correct, in the British Trade Boards Act of 1918, it was not stipulated that an officer of His Majesty's Service would be the Chairman. The Board of Trade or the Ministry of Labour in England can appoint any man as the Chairman of the Board. It was part of my course, while at Birmingham, to attend to these Trade Board meetings, and my professor was the Chairman of the Board. Therefore I wish the Government will not insist upon having an officer of the Government as the chairman. The Government can appoint as the chairman either one of their officers or a non-official. And it would be better, speaking from my own experience of the Industrial Relations Committee, which is operating in Travancore for the last three years, to leave the election of the chairman to the four members of the Board, two representing the employers and two representing the employees. They may elect a chairman from the industrial class or from among the officers of the Government or any other outsider.

PRESIDENT: That is a matter which you may take up in the Select Committee.

MR. K. C. KARUNAKARAN: Another important point I have to bring to the notice of Government is the answer given by the Director of Industries to an interpellation of an honourable member. He asked whether Government have done anything for standardising wages as a result of the recommendations of the Industrial Relations Committee and the Director of Industries on behalf of Government said that the establishment of these trade boards would meet the situation. But

there is really a difference between the standardisation of wages which depends upon the standardisation of the articles produced by manufacture, which, in turn, depends upon the standardisation of the raw materials. Here the aim is to examine the present wage system and see what really the minimum wage is; in other words to see whether exceptionally low wages are prevailing in any industry or groups of industries and the trade boards are empowered to examine this in order to arrive at a minimum wage. I am afraid we will then be put into awful difficulties. This should be applied only to find out the minimum wages in industries where exceptionally low wages are prevailing.

Another point is that this Bill has nothing to do whatsoever with the basic wages which we have adopted by mutual understanding. These Trade Boards are not going to touch the basic wages which were prevailing in various industries in Travancore before the outbreak of the war; it was with this understanding that we have been very liberal, that we have been going out of our way to agree for the payment of 62½ per cent. of war allowance on the basis of the pre-war basic rates. There is a move now, after the publication of this Bill, to demand the alteration in the basic wages. That should not be made possible, and if that is to be done the employer would be agreeable only on this basis, *viz.* that the 62½ per cent. dearness allowance which we are paying now should be re-examined in the light of the new standards. With these few words I support the Bill.

MR. P. N. KRISHNA PILLAI (*Co-opted*): Sir, I may, at the very outset, thank the Government for associating a representative of organised labour for the consideration of this all important labour legislation. But I will be failing in my duty, Sir, if I do not submit that the contribution from labour to this legislation would have been very much greater if normal full representation was afforded to labour in this House. Of course I know that this is neither the forum nor the occasion to demand representation for labour in the legislature. But I wanted only to submit that the contribution of labour with full representation, would have been very much better even in the matter of labour legislation.

Now, coming to the provisions of this Bill, I may express that Labour has great pleasure to accord its general support to the principles of this Bill. As was pointed out, this is a legislation which is based on the Trade Boards Act of 1909 and 1918 obtaining in Great Britain. And in India, Sir, we have yet to see such a legislation either in an Indian State or Indian province. We are of course, very progressive in the matter of labour legislation. But what I want to add is that there is no effective enforcing of that legislation and there is no adequate machinery for implementing the various provisions of the various Labour Acts that are on the Statute Book in Travancore.

With regard to the history of a wage fixing machinery in India, I may submit that the International Labour Conference of 1928, if I remember correct, passed a convention to the effect that the wage fixing machineries should be instituted in industries where the standard of

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living of the workers is extremely low. The Government of India did not ratify that convention and the Central Legislature, while endorsing the view of the Government of India added the rider to the resolution that it would await the Whitley Commission Report. The Whitley Commission was then investigating the condition of Labour at that time. The Royal Commission on Labour had thought about this question and were not very much optimistic in having a wage fixing machinery for the various industries in India. Of course it recommended that in such backward industries where the workers are employed on sweated labour such as beedi factories or the tanning industry or even the Assam plantations, some wage fixing machinery may be instituted. That was the Whitley Commission's Report. After that though the various recommendations were implemented by legislation by the Government of India, this has not yet been taken up. But I know this matter is engaging the attention of the Government of India because, as I submitted, the Labour Investigation Committee is considering the Wage fixing machinery, and if I may take this House into confidence, a memorandum is to be sent by the All-India Trade Union Congress strongly urging that wage fixing machinery on the lines of the British Trade Boards Act may be constituted in India as well. I am really glad that we have stolen a march over the rest of India in the matter of this wholesome social legislation. With regard to the Travancore Labour Inquiry Committee which was referred to by the honourable Legal Remembrancer, generally known as the George Committee, in which I had the privilege to serve as a member, the Committee had recommended that a wage fixing machinery on the lines of the trade boards of Britain may be brought into effect in Travancore. Both the Chambers of commerce, the Travancore Chamber of Commerce, as well as the Alleppey Chamber of Commerce, supported that view, and that found a place in the report of the Committee,—only their demand was that industries other than the coir industry should also be affected by this legislation. My honourable friend Mr. Karunakaran said that it has absolutely nothing to do with the standardisation of wages. I do admit that the standardisation of wages will have to be tackled separately. But any sort of standardisation of wages involved, inevitably, the fixing of the minimum wages. That is the view of the Travancore Chamber of Commerce stated in their memorandum before the Committee which was referred to by the Legal Remembrancer. We have therefore received support on all sides for this legislation and on behalf of Labour I have very great pleasure to support the general principles of this Bill. I am very much thankful to the honourable member the secretary of the Chamber of Commerce for reminding me that the scope of the Act is very much limited.

According to the definition in clause 2 (e) 'trade' includes a factory, industrial establishment, mine or plantation or any other business which Our Government may, from time to time, by notification in Our Government Gazette declare. Again 'factory' is defined as having the same meaning as a factory under the Travancore Factories

Act. It is the usual slogan of the labour representative that the definition has to be widened. With regard to this particular Act, it will be well if all concerned remember that the object of this Act is not to protect such strong industries where workers are united or in a position to collectively bargain. The position in England is to help such industries as the card-board industry and the tailoring industry where the workers are not in a strong position. But here in small factories workers are very weak and they want help from Government. So the very object of the Bill will be frustrated if the definition is retained. What the Whitley Commission recommended was that it is in weak industries where the wage fixing machinery should be constituted. I would humbly submit that the Government will see its way to endorse the amendment pointed out both by the employers' representative and the labour representative. Many of the cashewnut factories do not come under the Factories Act where the working conditions are very bad. If those workers are to be left out and the coir factory workers in Shertallai and suburbs of Alleppey are to be left out this legislation will be of no use to a large number of poor workers. I do not think my honourable friend Mr. Velayudhan, the president of the Coir Cottage Industries Association will have any objection to accept that amendment. Where the workers are in a very unorganised state, my humble submission is that the Bill should be really made applicable. If the object of the Bill is to be achieved at all, the scope of the Bill ought to be widened.

MR. P. S. MAHOMED (*Nominated*): സർ, കാട്ടേജ് ഇൻഡസ്ട്രീസ്സിന്റെ പരിധിയിൽ ഇവകൂടി ഉൾപ്പെടുത്തണമെന്നാണോ ബഹു. മെമ്പറുടെ അഭിപ്രായം?

MR. P. N. KRISHNA PILLAI: Everything depends upon the definition of 'Cottage industries'. There are in Shertallai hundreds of workers in factories which are not using power and therefore coming under the name of 'cottage industries'.

The object of this Bill is not to fix the basic wages but only to fix the minimum wage. The honourable Deputy President pointing out clause 6, asked whether there has been any trade dispute because the minimum wage was not fixed. Of course, there were disputes on that account. The question is not whether there is a trade dispute or not. It is the duty of the State and Society to help weak and unorganised labour. It is the duty of the State to see that a healthy standard of life is maintained by the unorganised labour. It should not be taken that this legislation is intended to conciliate disputes. It is a social legislation intended to raise the standard of life of the poor workers. My humble submission is that the ambit of the Act should be so widened as to include the small industries.

I may not be in order in going into the details of the Bill at this stage, but I may be permitted to point out certain salient facts. With regard to the constitution of Boards in England, no specific number is fixed. I have no objection in having specific numbers fixed. But

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where there is a Trade Union, as was pointed by an honourable member of this House, the Trade Union should be given the option to have an elected representative in the Board. In England, by an amendment in 1918 it was provided that the representation may be by election or nomination or by both election and nomination, so that the real representatives of labour may find a place in the Board.

PRESIDENT: As a matter of fact in the tailoring trade even now the member is a nominated member.

MR. P. N. KRISHNA PILLAI: That may be because there is no strong Union to represent the tailors. I wish to point out that where there are Unions to represent the labour, their representatives may be chosen to the Board.

With regard to the question of representation of women, the option is given to the Government in trades where large numbers of women are employed to nominate a woman. In England it is imperative on the Government to nominate a woman on the Board in the case of trades where a large number of women are employed. In the case of the Cashewnut industries and similar industries where women are largely employed, it is highly necessary to nominate a woman.

With regard to the other provisions of the Act, it was pointed out that it was only on the representation of the employer that a wage can be fixed. That is not so. It is only to fix a special minimum piece rate that the employer has to move. Any worker can move for the fixation of the minimum wage. According to the Trade Boards Act in Great Britain, the Minister of Labour is more or less bound to act on the report made by the Board within one month. Here the proviso to clause 9 says that the Government may for reasons to be recorded in writing decline to act on the recommendation of the Board. Except in special circumstances, the Minister of Labour is bound to act upon the report of the Board within one month under the Trade Boards Act in Great Britain, so that the recommendation of the representatives of Labour and employer may be implemented. Another feature of the Bill is that according to clause 9 (5) a minimum wage fixed comes into operation only subsequent to the order of Government. But in the Industrial Relations Committee, to which Mr. Karunakaran referred, the accepted convention is that though the decision may be made subsequently, the altered wages come into force from the time when labour demanded for the same.

MR. M. L. JANARDHANA PILLAI: Question.

MR. P. N. KRISHNA PILLAI: Sir, there are instances such as the one in which wages were settled for saleeta matting. That is a healthy convention. I leave the whole matter to be considered by the Select Committee. I only want to point out the salient factors to be considered at this stage.

I would next refer to the very wholesome provision made in clause 16, to the effect that a worker who is waiting within the premises of the factory should be given wages for the period he has waited. It is only justice and fair play that he should be given his wages. If due to the failure of power or other causes the work ceases, the worker has no alternative to go elsewhere and work so that he ought to be given his wage for the day.

MR. K. C. KARUNAKARAN: If the power fails, is it the fault of the employer?

MR. P. N. KRISHNA PILLAI: It may not be anybody's fault. The employee is in a weaker position. It is not a very great thing for those employers who are making very good profit.

With regard to the provision for the penalties, I endorse the views of Mr. Chellappan Pillai that provision should be made for summary proceedings. It is so under the British Act. It ought to be embodied in our Act also. With these general observations, I support the general principle of the Bill. I may also add that in the days after the war a complete reconstruction of society will be necessary rather than this piecemeal labour legislation. Great Britain is contemplating the Beveredge plan, and the Government of India have appointed the Rege Committee to investigate into labour problem. While accepting this Bill, I hope that the Government will put forward their schemes of social reconstruction for the benefit of the masses of the country.

With regard to agricultural wages referred to, I have absolutely no objection to include the same in this Bill. In England it is done by a different Act, that is by the Agricultural Wage Boards Act. In England, there is another legislation enacted in 1938, that is the Holidays with Pay Act. A duty is assigned to the Trade Boards under that Act. These Boards may fix the minimum number of holidays with pay for the workers. Here that is a bone of contention between employers and employees in some industries. It may not be in the coir industry but in the textile industry there is contention. I do not think there is any necessity for a separate legislation on that matter. The Trade Boards can be empowered to fix the minimum number of holidays with pay whenever it is necessary and whenever that matter is taken into consideration. With these few words, I support the general principles of the Bill.

MR. M. L. JANARDHANA PILLAI: Sir, I am very glad to say that the employers welcome the principles of this Bill. The Travancore Coir Mats and Matting Association which represents the largest organised industry in Travancore, have accepted the principles contained in the Bill. The Committee appointed by Government to enquire into the disputes in the coir mats and matting industry, familiarly known as the George Committee, has also made recommendations supporting the principles of this Bill. In fact the Committee has strongly advocated the introduction of such a measure. The employer has also agreed to this view of the George Committee Report. Therefore, it will be seen that the employer is anxious to do his best to labour. This Bill has

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certainly come in proper time, because during the last seven years a good number of labour legislations has come into the statute book which will certainly bring credit to any modern administration. By adopting such a course much of the troubles, strikes, lock-outs and other unpleasant incidents have been avoided. I may also claim that the good intentions of Government were certainly accepted by the employers as a body. We did not lack in our earnestness to implement the efforts of the Government in that direction. This Bill is intended to provide for the establishment of Trade Boards for certain trades and to regulate and fix the payment of wages to workers in such trades. It extends to the whole of Travancore. Therefore it deserves the special thanks of both the labour and the employers. But at the same time I have to point out one particular matter for the information of Government and the House. If this labour legislation is passed the Wages Board will operate in areas where factories are in abundance and where factories come within the purview of the Factories Act. At the same time, two or three miles away from towns there are a number of factories which do not come within the purview of the Factories Act. If this Bill is not made applicable to those factories also there is likelihood of difference in the wages between these two sets of factories. When it is remembered that the manufactured products of both the factories are to be sold in the same market the difficulty will be clearly evident to the Government. I find that power is also given to Government to exempt certain factories from the operation of this Act. The Bill says :—

> "If at any time Our Government are satisfied that the conditions of employment in a trade or a class of trades or in any branch of work in a trade to which this Act applies have been so altered as to render the application of this Act to the said trade, class of trades or branch of work in the trade unnecessary, they may, by notification in Our Government Gazette, exempt such trade class of trades or branch of work in the trade for such periods and subject to such conditions as they may think fit to impose."

I congratulate the Government on the directions they have already made in providing this clause in the Bill. As time goes on and under different conditions it may be possible for the Government to make a distinction as to where the law has to be enforced and where the law need not be enforced. It is therefore in the interest of both the labour and the industry as a whole that Government should provide themselves with this power. All these provisions surely go to improve the usefulness of this Bill for labour. Therefore, the industry feels that it is helpful both to the labour and the employer, particularly at this moment when there is an attempt on the part of labour to get both the employers and the Government to concede somehow or other to the necessity of altering the rate of basic wages that were in existence during the last twentyfive or thirty years. We have already given 62½ per cent war allowance and the present attempt of labour, I am afraid, is to see that through this legislation and other methods this 62½ percentage war allowance is made permanent and that over and above this to ask for an enhancement of the basic wages. That will

be the thin end of the wedge. We are only at the beginning stage of the industrialisation of the country. There is an industrial awakening in the country and we should realise that the Government are one with us in meeting all the possible requirements necessary for such an advancement. Therefore we should be very very careful in enacting any legislation. We should not kill the goose that lays the golden egg. Sir Homy Mody in 1942 speaking in the Indian Legislative Assembly on the Payment of Wages Bill did say that many industries were migrating to Indian States because such Acts were not in the Statute Books of those States. We can read between the lines. So we have to be very very careful before we proceed in the direction in which I have just now been trying to indicate. From the Bill I find that every Board is given power to frame rules and fix minimum wages. Sir, on behalf of all interests I must thank the Government for bringing in this provision in the Bill. This provision will practically make it impossible for declaring strikes and lock-outs. The Board has power to fix a minimum wage rate also. There is one difficulty in accepting the minimum wage rate. Nobody can quarrel with the principle. But what about the wilful idler? How can we expect him to do his work on a piece-work basis when he is guaranteed by an Act to a certain minimum wage? That is a real difficulty which should engage the attention of the House. My friend, Mr. P. N. Krishna Pillai pointed out that under Section 16 any man who is found inside the premises of a factory, howsoever he might have got into it can claim his wages at the end of the day. I want the House to seriously consider this aspect of the question. Usually there is only one watcher at the gate of a factory. Any man may get into the factory without being noticed by the watcher; in fact many such cases have happened. It may be that work may not be ready for him, due to some difficulty. The worker can slowly get into the factory without the knowledge of the watcher or the manager and sleep in some obscure corner and at the end of the day ask 'come on, give me my wages or I am going to create trouble'. And the Union will come and ask wages on his behalf and generally support the labourer,

MR. P. N. KRISHNA PILLAI: May I point out to the honourable member that there is provision for the employer to prove that the worker was present without the employer's consent?

MR. M. L. JANARDANA PILLAI: Yes, but then he will have to go to a court of law to prove it. The number of employees in a factory is certainly larger than the number of employers who will be only one or two. Honourable members can imagine how difficult it is to adduce proof that the man entered the premises without the knowledge of the employer. The difficulty is very great when it is remembered that that worker might be a permanent worker of that factory, working on piece-work basis. Under Section 13 (1) both the employer and the agent can be brought under the provisions of the law and prosecuted.

MR. PULIYOOR T. P. VELAYUDHAN PILLAI: Is there not a provision by which the employer can prove that it is not due to his fault but due to the fault of his agent?

MR. M. L. JANARDANA PILLAI: Yes, there again the employer must prove it in a court of law. I do not know why for a simple fault of making even an arithmetical mistake in the payment of wages there should be so much of prosecution and punishment provided under this legislation. I can understand if the employer is asked to pay double or 1½ times the amount. But why should he be unnecessarily prosecuted? If he is prosecuted he must answer the charges in a court of law. It will be costly and vexatious for the employer to prove all those things. In the course of the discussion, it was pointed out that the Chairman of the Board must be elected. That is the last thing which the employers will accept. Whatever may be the complaints about Government and their officers, we certainly expect better justice from an officer nominated by Government. I have no objection in Government nominating a woman member to the Board. But whether it is man or women, the number in the Board shall certainly be just the same as that allotted for the employers. It cannot be more than that. Conditions in Travancore are certainly different from those in England. It is certainly good on the part of Government to come forward with a legislation of this kind. I find that power is given to an officer to initiate the prosecution against the employer. That power to sanction prosecution should certainly vest with Government and nobody should be given the power to take the initiative to conduct such proceedings. If I do not mention these things here which certainly affect the employers as a whole, I may probably be in a difficulty in the Select Committee. Therefore, I bring these facts to the notice of the Government. Again, I have pointed out that under certain provisions, the employer has to be punished for all these mistakes or errors. All the provisions make it imperative that the *employer* must be punished. May I ask one question, Sir? In all these labour Acts for every offence, even if they are trivial, the employer can be prosecuted. But what about labour? No punishment is provided even for all his misdeeds. Government also seem to be slowly yielding year after year to labour at the expense of the employer. The result is likely to be that if the interests of the employers also are not safeguarded by Government, the employers will cease to exist in this country.

MR. K. G. KUNJUKRISHNA PILLAI: In view of the discussion that has taken place on the floor of the House, may I be permitted to make clear one or two points? At the outset, I must state the sure test of the necessity of the Bill is in the equal opposition of the employer and the employee exhibited on the floor of the House. I am gratified that on the whole, the principle of the Bill has been approved by the House consisting as it does of radical employees and conservative employers. Sir, I may be permitted to point out that a large number of points raised during the discussion may be discussed and threshed out in the Select Committee stage. But I may make one or two observations. The honourable Deputy President said two things which I consider are of importance. He said that there was no demand for the Bill, because there were not many disputes which justified the introduction of a Bill by the Government.

RAJYASEVANIRATA S. CHATTANATHA KARAYALAR: I said that there was no case.

MR. K. G. KUNJUKRISHNA PILLAI: I accept the explanation. It does not improve matters. I am not speaking about conditions existing in British India or England. In Travancore at the earnest request of employers and employees a Committee was appointed by Government to go into the question of disputes which occurred from time to time and which practically brought a very thriving industry to a standstill. That Committee unanimously recommended that a Bill of this nature should be introduced. May I be permitted to read one or two sentences from the report of Committee to justify the assertions that I am making. The Committee in their report—Chapter III—page 103 says as follows:—

> "One of the most outstanding features of the wage system obtaining in the industry is the striking disparity in the rates for the same type of work........In our opinion wide disparities in wages paid to workers are a potential source of danger to peace in any industry. It does not appear that there has ever been any attempt made in the past to bring about a standardisation of wage rates prevailing in the industry.... ...... We realise the technical difficulties involved, but we are not inclined to regard them as altogether insuperable"

Further down we find:

> "The standardisation of the rates of wages will necessarily involve some form of minimum wage fixation. This has been admitted by several of the manufacturers who have given evidence or sent replies to our questionnaire and also by the two Chambers of Commerce in Alleppey"

They uniformly recommended that legislation should be introduced. Further, the Travancore Mats and Matting Manufactures' Association requested the Government to introduce legislation for the purpose, and the facts before me go to show that an insistent demand has been made from time to time. In fact, I must place before the House the fact that I have been more than once reminded that a Bill on this matter was overdue.

The second point which I want to stress is with regard to the scope of the Bill. On that matter the honourable Deputy President pointed out that in England, it is the minor industries that are affected. It is certainly not so. There are certain well-established industries with labour unions where the question does not arise, but if the honourable members would look into the schedule given in Halsbury, they will find that it affects a very large number of industries. The schedule is so large that I cannot read it in a very short time. So, it is not correct to say that in England it does not affect the main industries.

Another point on which I appreciated the criticisms of the honourable members is with regard to the definition of the term "factory". It was pointed out that the definition of the term "factory" is likely to exclude a large number of industries where this protection is necessary. But may I point out that the term "factory" as is defined here is the definition copied from the Factories Act. In the

Factories Act, there is a provision which enables Government from time to time to declare any industry or any establishment to be a factory.

MR. P. N. KRISHNA PILLAI: May I know how many establishments have been declared as "factories" under the Factories Act?

MR. K. G. KUNJUKRISHNA PILLAI: I am unable to answer that question. I am stating only the law and not the application of the law. Along with that definition, there is a provision in the Factories Act which enables the Government from time to time to bring any institution under the term "factory." Again, taking the definition of the term " industrial establishment", it will be seen that it has been defined as " motor vehicles service, dock, wharf, jetty, inland steam vessel, quarry or oil-field other than a mine, plantation, workshop or other establishment in which articles are produced or manufactured with a view to their use, transport or sale." I particularly want the honourable members of the House to direct their attention to clause (f). If there is any possibility of any important trade or industry being left out, it is open to the Select Committee on a discussion of the matter to make a change of definition so as to include them. But I do not think that there is a possibility of any important group of workers of any trade being left out of the scope of the Bill.

MR. K. K. CHELLAPPAN PILLAI: May I know whether the agricultural workers, employed other than in plantations, come under this clause?

MR. K. G. KUNJUKRISHNA PILLAI: They have been definitely left out of consideration, for the simple reason that so far as we are aware there has not yet been brought to the notice of Government any class of agricultural workers constituted as one unit in the country. I have not heard of a union of agricultural workers either in Mavelikara or in Kottayam or in Trivandrum. Of course there are a large number of agricultural workers in the State, but the point is that they must form themselves into a union or a class of trade or a business.

MR. P. N. KRISHNA PILLAI: May I know from the honourable member whether he is aware that there is a " Kuttanad Agricultural Workers' Union?"

MR. K. G. KUNJUKRISHNA PILLAI: I am not aware, and I thank the honourable member for having brought that point to my notice. But I know that there is an agricultural association in Kuttanad. I did not know that there was a separate agricultural workers' organization.

MR. K. K. CHELLAPPAN PILLAI: Am I to take that the other agricultural workers must be entirely left out of the picture?

MR. K. G. KUNJUKRISHNA PILLAI: They may be included in the picture, but what I was saying was that for the application of the principles of the Bill, it was not enough if there were only individual workers in the State; the workers must be organized under a trade or a business on which the Board could exercise its influence and authority.

MR. A. K. BHASKER (*Quilon cum Kottarakkarai*): May I understand that these agricultural labourers have to collect themselves and agitate for it ?

MR. K. G. KUNJUKRISHNA PILLAI: They may do so if they like. My point is that it is impracticable to frame a Bill without knowing the basis on which we should proceed. I may also add that if there is a collection of agricultural labourers, it will not be impossible for them to come under one of these definitions of the term "factory" "industrial establishment" or "trade"; futher, will it not be possible for the Select Committee to include them if they think that a large number of agricultural workers in the State should be given the benefit of the protection under the Act ?

MR. PULIYOOR T. P. VELAYUDHAN PILLAI: May I know from the Legal Remembrancer whether in the English Act of 1909 and 1918, the agricultural workers were brought within the ambit of .....

PRESIDENT: The whole trend of legislation in England proceeded on different lines. I do not think it has been sufficiently borne in mind that the legislation of 1909 and 1918 was originally introduced because—probably one or two in this honourable House may be aware of that—it was taken for granted and it was proved that certain rich gentlemen of Jewish nationality were conducting retail trade in tailoring and in ready-made suits and were using sweated labour, mainly English, Polish and Slav labour, at rates which were ruinous to the ordinary labourer in England. It was part of what may be called a racial legislation at the inception. Afterwards, as the legislation proceeded, it was extended and certain extra items were also brought into the legislation. But those who may have any remembrance of what took place in 1909 and 1918 and those who may be aware,—probably Mr. Tolson is aware—of the result of the Cohen Case, know that it was largely restricted in scope. It was gradually extended afterwards, but there was a question that arose later on about agricultural labour and there has been special legislation in England about agricultural labour under certain very specific conditions which may be studied by the honourable members who are insistent on that. Honourable members, before they go further into the question—I am not here curtailing or restricting the scope of work of the Select Committee which will work on a matter of this kind and have much liberty—will necessarily admit that the conditions of agricultural labour differ from locality to locality and from one category to another. Plantations may stand on one footing. Large-scale agricultural labour where 50 or 100 acres are dealt with, may stand on a different footing. Labour, where the owner of the plot or his relations or his immediate dependants or a few retailers and also a certain proportion of hired labour work on plots of one or two acres may stand on a separate footing. The whole question of what may be called the regulation of a basic or a minimum wage in case of agricultural labour demands very careful attention and investigation, and I am perfectly willing, if I find there is a general demand for that investigation, to inaugurate that investigation. But I would, without making any remark which will handicap

[President]

the efforts of the Select Committee on this Bill, ask the Select Committee to ponder carefully over the possibilities of extending the scope of the Bill to agricultural labour which necessarily has to be governed by specific conditions which do not appertain to or are appropriate to industrial labour.

MR. K. G. KUNJUKRISHNA PILLAI: I may also point out to this honourable House the definition of trade under clause (e) which says: "plantation or any other business which Government may, from time to time, by notification declare" etc., etc.

Having explained this, I may also state that with regard to the constitution of the Committee, the Government are of the opinion that for the time being it must be presided over by an officer of Government and that the members be nominated. The whole thing may, of course, change later on, when the scheme develops.

The motion that the Bill be read in the Assembly was put and carried.

SECRETARY: The title of the Bill shall be "The Travancore Trade Boards Bill."

MR. K. G. KUNJUKRISHNA PILLAI: I move that the Bill be committed to a Select Committee consisting of the following members:—

1. *Rajyasevanirata* S. Chattanatha Karayalar
2. Mr. V. K. Velayudhan.
3. " V. Gangadharan Nair
4. " Xavier Vincent
5. " P. K. Kunju
6. " P. N. Krishna Pillai
7. " M. L. Janardana Pillai
8. " K. C. Karunakaran
9. " J. E. A. Pereira
10. " A. R. Sulaiman Sait
11. " J. W. Tolson
12. " K. A. Mathew
13. " V. S. Krishna Pillai
14. " P. Udayabhanu

The motion was put and carried.

THE TRAVANCORE CHITTIES BILL.

MR. K. G. KUNJUKRISHNA PILLAI: Sir, I rise to introduce the Travancore Chitties Bill and move that the Bill be read in the House.

MR. S. NARAYANA AIYAR: I second it.

MR. K. G. KUNJUKRISHNA PILLAI: The Statement of Objects and Reasons gives in detail the object of the Bill. The Bill is intended to be a consolidating Act and to take the place of the existing Act.

MR. PULIYOOR T. P. VELAYUDHAN PILLAI: In rising to support the principle of the Chitties Bill I wish to make a few observations. Before coming to the consideration of the principles, I wish to know

from the Government why they did not think it worth while to furnish copies of the report of the Chitties Committee constituted by the Government. They did not furnish the members of the Legislature with a report of the Committee.

MR. K. G. KUNJUKRISHNA PILLAI: That is a document which is in our hands. Nobody has asked for it. It embodies the main recommendations of the Committee.

PRESIDENT: When did it come to our hands?

MR. K. G. KUNJUKRISHNA PILLAI: Sometime back. I did not know it was necessary to furnish every honourable member with a copy.

PRESIDENT: There can be no objection to its being placed in the hands of every honourable member. I shall give directions accordingly.

MR. PULIYOOR T. P. VELAYUDHAN PILLAI: Thank you, Sir. The practice was to make the report available to the members of the Legislature so that they may be enabled to study the pros and cons of the matter.

PRESIDENT: So far as I can see, the provisions of the Chitties Bill are mainly what may be called the adaptations of the Chitties Committee's resolutions. I am told that practically it is an adaptation, *in extenso*, of the Chitty Committee's recommendations.

MR. K. G. KUNJUKRISHNA PILLAI: I have stated so in the Statement of Objects and Reasons, Sir.

PRESIDENT: That being so, and as there are no departures in principle from the points made by the Chitty Committee, the question may be considered whether it will not be convenient to refer the Bill to a Select Committee who will have full opportunities of reading it. All the honourable members also will have a copy of the Report by that time, and the Bill may be considered after that.

I take it that this reference of the Bill to a Select Committee will be finished in about half an hour. I do not think that it will take much longer. Is it the wish of the honourable House that as soon as the legislative work is over, the elections may proceed? I think there are four elections to be conducted.

(The House expressed its assent).

PRESIDENT: Yes; the House will now adjourn and meet again at three o'clock.

The House reassembled at 3 P. M. the Dewan-President presiding.

MR. PULIYOOR T. P. VELAYUDHAN PILLAI: Sir, the first Chitties Act III of 1097 was amended three times before. But such amendments were not sufficient to bring about the desired effect. It is really gratifying to note that the present Bill contains several important provisions to safeguard the interests, both of the foremen and the subscribers as a whole and the unprized and unpaid subscribers in particular. Clause 13 of the Bill clearly restricts the extent to which

[Mr. Puliyoor T. P. Velayudhan Pillai]

alone the alteration of Variola can be effected by means of Special Resolutions and in the existing law there is no such provision. Hitherto the foremen could start and conduct chitties without executing security bonds, if that course was assented to by all the subscribers. Even in cases where the foremen executed security bonds, it has been a matter of common knowledge that the properties charged were ultimately found to be valueless or thoroughly inadequate for the realisation of the amounts charged on such properties. The whole difficulty was that there was no officer to scrutinise the real nature and the value of the properties charged. But irrespective of the consent of all the subscribers of the chitty, clause 17 of the Bill makes it incumbent on the foreman to execute security bond charging properties sufficient to the satisfaction of the Registrar or any officer empowered by Government in that behalf. Sir, under the existing law the foreman could take any amount as commission or remuneration out of the chitty amount for the conduct of the chitty. But Clause 18 sub-clause (1) (b) provides that such commission or remuneration should not exceed five per cent. of the chitty amount.

According to the existing law there is no punishment prescribed for default in the investment by the foreman of the unpaid prize amount in any approved bank or for the withdrawal of the same for purposes other than those for which these amounts have been held in deposit. But Clause 19 sub clause (4) provides for punishment for such non-investment or withdrawal. In the majority of cases, chitties collapsed as a result of the misappropriation by the foremen of consolidated payments of future subscribers made by defaulting prized subscribers. Similarly instances were also numerous where the foremen used to execute assignments of chitty bonds in favour of their near relations without any consideration or *bona fides*, with a view to defraud creditors. Sir, it is gratifying to note that the new Bill contains adequate provision for the prevention of such misappropriations and fraudulent transfers. The provision regarding the preparation of an annual balance sheet containing the assets and the liabilities of the chitty and also the provision that all payments in respect of the chitty either by the foremen or by the subscribers, should be evidenced by documents, will no doubt minimise the unnecessary contentions in chitty suits. So my submission is that the new provisions contained in the Bill will conduce to better and more satisfactory conduct of the chitties in future. With these observations, I support the general principle of the Travancore Chitties Bill.

MR. T. K. NARAYANA PILLAI: Sir, there can be little doubt that the provisions of the present Chitties Act require to be amended. As I understand, from the chitty transactions in the State, the following things result. An astute chitty foreman colludes with certain subscribers and tries to defeat a major portion of the innocent subscribers. This is what actually happens in the real working of the

Chitty Rules. Therefore it is necessary to introduce legislation to prevent an astute foreman from defeating the subscribers in general. Sir, in the proposed Bill, one looks in vain to find out an effective provision to meet such an evil. I think I can substantiate that point. After all, the chitty foreman is defeating the subscribers by keeping incorrect and unsafe records. I find that the provisions of the old Act have been copied out here. As such, nothing new is put in the proposed Bill to prevent the evil suggested. Let us see for a moment what the provisions are in the old Act for this purpose. Certain account books such as day book and ledger have to be preserved. They are important records to be maintained. Under the proposed Bill, there is no need to maintain them. I do not know why such a salient point was missed by the draftsman of the Act. No doubt, there is no similar legislation in British India which puts us in a serious handicap.

PRESIDENT: The honourable member would do well to refer to sub-clause (4) of clause 20.

MR. T. K. NARAYANA PILLAI: Clause 20 says—

"The foreman shall keep—

Books to be kept by the foreman.

(1) a register containing—

(*a*) the names and full addresses of the subscribers together with the number of shares held by each subscriber;

(*b*) the dates on which the subscribers signed the variola; and

(*c*) in case of assignment by a subscriber the name and full address of the assignee with the date of assignment and the date on which the assignment has been recognised by the foreman;

(2) a book containing the minute of the proceedings mentioned in Section 15;

(3) a book containing—

(*a*) the amount paid by the subscribers and the date of such payments;

(*b*) the amount paid to the prized subscribers with the date of such payments;

(*c*) in case of deposit in Bank, the date and amount of such deposit;

(4) such other books including a day book as may be prescribed from time to time by Our Government."

Sir, I ask, in what way is this different from the old law.

PRESIDENT: But there is nothing to prevent the Select Committee from enacting suitable modifications to the proposed Bill.

MR. T. K. NARAYANA PILLAI: Again, there was an Amendment Act empowering a chitty foreman not to postpone the chitty beyond one year. In the proposed Act, there is a provision for postponing the date of the chitties. But I do not know why the framers of the Act forgot the provisions of the Amending Act in this behalf.

MR. PULIYOOR T. P. VELAYUDHAN PILLAI: Sir, may I bring to the notice of the House that that provision was intended only for a temporary period of one year due to the prevalence of the then economic depression.

MR. T. K. NARAYANA PILLAI: It only accords with justice and practical common sense that it is not safe that chitties must be postponed from year after year. If the provisions of the Amendment Act were copied out in the proposed Bill, that would have given a stability to the proposed measure and the chitty foreman will not be in a position to play fraud on the subscribers.

Then, Sir, the proposed Section 33 is practically a word for word copy of Section 28 of the old Act. There are conflicting decisions of the High Court on that matter. The present position seems to be this. In order that the Section must operate, the foreman must be in absolutely insolvent circumstances according to one set of decisions. Another set of decisions says just the opposite. One looks in vain in order to clarify that point in the proposed Bill.

Again, it is stated that the provisions of the proposed Bill would conduce to prevent the foreman from defeating the subscribers. A foreman has to give certain securities. He has to deposit the amount collected from subscribers in an approved bank and could draw the money back only for the purpose of paying the prized subscribers. All this is made to obviate the evils arising out of irregularities by foremen. I for my part fail to see the difference between the provisions of the proposed and the old enactment. The foreman has only to state that he is drawing the money for payment to prized subscribers. He need not pay it to the subscribers.

MR. PULIYOOR T. P. VELAYUDHAN PILLAI: Then, is there not a penal provision made to deal with the misuse of money?

MR. T. K. NARAYANA PILLAI: Even in the old Act there are provisions to this effect. But my point is --

MR. PULIYOOR T. P. VELAYUDHAN PILLAI: According to the member may I know, what more can be provided by the legislature?

MR. T. K. NARAYANA PILLAI: Why cannot provisions be made to enable monies to be paid to the prized subscriber? Why should it be, that money has to be drawn from the bank and then paid? These are some of the glaring defects which have to be looked into. I do not fail to see any marked difference between the present Act and proposed Bill in this matter. If I am to discuss the various provisions of the Bill, that will take up the time of the House unduly long. In as-much as the Bill may come up at the Select Committee, I am satisfied by pointing out that the present provisions are quite unsatisfactory. There has been an insufficient appreciation of the difficulties of the litigant public and the actual subscribers. Hence I cannot support the present Bill for the reasons given in the Bill as such.

MR. PULIYOOR T. P. VELAYUDHAN PILLAI: Will the member enlighten us on some of the practical difficulties noticed in the actual working of the Act?

MR. T. K. NARAYANA PILLAI: If the President gives time, I shall try to explain that.

PRESIDENT: Mr. Narayana Pillai will do well to say that.

MR. T. K. NARAYANA PILLAI: There must be effective provisions to see that foremen do not defeat subscribers. The defeat is caused in two ways. Either he takes the money himself or misappropriates it in certain forms. He colludes with some subscribers to defeat subscribers to whom money has to be disbursed. Provisions should be made by which foremen are not able to do mischief.

Now, there must be effective provisions by which the foremen are prevented from committing fraud. Under the provisions of the old Act, the foreman shall disburse the amount of the chitty only on security being furnished, and if securities are not furnished, the foreman shall deposit the money in some banks. In what way are the provisions of the Bill different from the provisions in the old Act? That is my question.

MR. PULIYOOR T. P. VELAYUDHAN PILLAI: Is there any provision in the existing Act whereby the foreman is compelled to pay the amount only on taking proper security, by way of hypothecation or otherwise?

MR. T. K. NARAYANA PILLAI: There is no such provision in the existing Act. Nevertheless, invariably it is provided in the chitty variola, that such security shall be taken, so much so, that as a matter of practical working, there is no difficulty by reason of the provisions of the Act. My point has entirely been misunderstood by my honourable friend. My point is this. The present provision that the money shall be deposited in the bank or banks as the case may be, is not a salutary provision, for, the foreman has only to make a statement before the bank that he is drawing the money for the purpose of disbursing to the subscriber. In order to prevent that, there is, only what is called, the penal provision. There must be some other effective method by which the foreman shall not draw the money except for the purpose of disbursement to the prized subscriber. If the course that I suggest is adopted, this difficulty can be obviated. Let the money go into a bank. Let the subscriber produce the appropriate security, and then draw the money direct from the bank. If that is done, there will be an effective check. I believe my friend is grasping the point.

MR. JOSEPH VITHAYATHIL (*Co-opted*): Sir, I did not think that it would be necessary for me to speak on the general principles of the Bill as I thought that the amendments proposed in the Bill to the existing Chitty Act for the purpose of safeguarding the interests of the subscribers would be welcomed by the House. But my friend Mr. T. K. Narayana Pillai has thought fit to raise certain objections to the Bill and I think it necessary to meet them. According to him the present Bill is not sufficient to safeguard the interests of the subscribers. He says that the object

[Mr. Joseph Vithayathil]

of the Bill must be primarily to prevent foremen from committing fraud upon subscribers. As one who has taken some part in the preparation of the report of the committee appointed by Government for the purpose of considering the question of amending the law relating to chitties, I may say that the principal object of this Amending Bill is nothing but safeguarding the interests of the subscribers and preventing foremen from committing fraud on them. I may even say that that is the only object of the Bill. I shall refer to the particular points raised by my friend. The first is that there is no provision requiring the foreman to keep the necessary books of accounts particularly a day book. But clause 20 has been so drafted as to make it compulsory on the part of the foremen to keep all the necessary books, including a day book about which particular reference was made by my friend. Although chitties are not conducted every day, some chitties being conducted once in six months or even once in a year, it was thought necessary to insist on the foreman keeping even a day book, if so prescribed by Government. My friend said that there is nothing in the Bill for enforcing this provision. But clause 21 penalises the default in the matter of keeping such books. That clause reads thus:—"Any foreman who defaults to keep the books as required by Section 20 shall be liable to a fine not exceeding fifty rupees." Therefore it is not correct to say that there is no provision in the Bill to enforce the obligation created by clause 20.

Then my friend said that in drafting the Bill the provisions of the Chitty Amendment Act under which chitties can be adjourned for not more than a year were not taken notice of. He says that a similar provision ought to have been inserted in this Bill and that the omission is a serious defect. This question was considered by the Committee, but it was thought that in the light of the provision relating to the alteration of variola it was meaningless to embody the provisions of the Amendment Act relating to the postponement of the chitty. Under clause 13 the provisions of the variola can be altered by a special resolution in respect of certain specified matters including the suspension or prolongation of the chitty. If that is so, what is the meaning or significance in having a special clause which enables the foreman and subscribers to agree to an adjournment of the chitty for not more than a year? Clause 13 allows the foreman and subscribers to amend the variola in respect of certain matters *i. e.* reducing the capital of the chitty, advancing the chitty or postponing the chitty, etc. When there is such a general provision like that, what is the meaning in having a special clause allowing the foreman and subscribers to postpone the chitty for not more than a year? It would be meaningless and I can only say that this anomaly was not brought to the notice of the Legislature when the Amendment Act was passed. That Act was unnecessary in the light of the provision relating to alteration of variola contained in the old Act.

MR. C. K. SANKARA PILLAI: Is the member aware that in certain cases the foreman postpones, by means of a resolution, the chitty for one year, by another resolution, to another year, and so on?

MR. JOSEPH VITHAYATHIL: I am aware of that. We thought that the Amendment Act was capable of different interpretations and that it would give rise to many difficulties. Therefore we thought that it was not necessary to insert that clause in the Bill. We also thought it necessary to restrict the powers of the foreman in the matter of altering the provisions of the variola. In the case of certain specific matters only variola can be amended and one of such matters is the suspension or prolongation of the chitty (clause 13.) In effect, the provisions of the Amending Act have been inserted in the new Bill and I should think that it was a case of mere oversight on the part of my friend in not adverting to that.

Then my friend said that in the case of clause 33 there is no difference between the Bill and the existing Act. There need not be a difference for the sake of a mere difference. Simply because we are introducing a new legislation it is not necessary that all the provisions of the existing Act should be amended. But there is a material change even in so far as Section 33 is concerned; because under the existing Act the rights of the foreman can be transferred provided such transfer will not have the effect of defrauding or delaying the subscribers.

MR. PULIYOOR T. P. VELAYUDHAN PILLAI: May I know from the honourable member, whether Section 33 (1) is not a new provision?

MR. JOSEPH VITHAYATHIL: That is exactly what I was saying. As a matter of fact, under the existing Act the chitty rights can be transferred by the foreman provided the transfer does not affect the subscribers. We were of opinion that this right is being very often misused by the foreman and therefore we have taken away that right from him. If my honourable friend had only taken care to read the Bill carefully, this material change would have been noticed by him. Clause 33 provides for an absolute prohibition of the transfer of chitty rights without the previous sanction in writing of Registrar.

MR. T. K. NARAYANA PILLAI: What provision has been made to solve the conflict of decisions in respect of the matter that foreman must be in solvent circumstances, in order that the provisions shall apply? That was what the High Court held once.

MR. JOSEPH VITHAYATHIL: This new clause makes the position absolutely clear. It is on account of the words "if it defeats or delays a non-prized or un-prized subscriber" occurring in Section 28 of the existing Act that the High Court had to interpret that section in that manner and to hold that transfer of chitty rights by foremen will be invalid only if it defeats or delays the subscribers and that if the foreman is in solvent circumstances at the time of the transfer, the transfer will be valid. It is purposely to avoid the difficulties that often arise on account of this interpretation of Section 28 that we thought it necessary to amend the section by taking away the clause referred to above. It is a very material change that has been introduced in the Bill.

MR. PULIYOOR T. P. VELAYUDHAN PILLAI: Was not a transfer under Section 28 only a voidable transfer?

MR. JOSEPH VITHAYATHIL: Yes, Sir. It is so. That matter also was considered by the committee and the new clause was drafted on the basis of the experience gained by the committee as a result of the decisions of the High Court referred to by Mr. T. K. Narayana Pillai.

Then Sir, my friend stated that there is no difference between the existing Act and the Bill with regard to the provisions meant for safeguarding the interest of the subscribers. I must say that my friend is absolutely mistaken. Numerous new provisions have been inserted in the Bill for achieving this object. Under the existing Act conducting an unregistered chitty which ought to be registered is not an offence. The Act only prohibits the conduct of such chitties, but does not make it an offence. In the Bill it is made an offence to conduct such chitties. Again one means of defrauding the subscribers usually resorted to by foremen is to provide in the variola that, in the peculiar circumstances of the case, it is not necessary that the foreman should furnish security for the proper conduct of the chitty. We have taken away that freedom of contract and have made it obligatory on the part of the foreman to furnish security in all cases. With regard to the security also, we thought that it should not be a matter which should be left to the discretion of the foreman and the subscribers as is the case under the existing Act. The Bill provides that in the case of property security it should have the approval of the Chitty Registrar or any other officer appointed by Government in that behalf. Otherwise, there must be cash security. What more provision should be inserted in the Bill with regard to security?

With regard to the deposit of the chitty amounts which a foreman is bound to deposit under the provisions of the existing Act there is no provision in the Act to enforce this obligation. Therefore a penal provision is inserted in the Bill for enforcing this obligation. Mr. Narayana Pillai said that there is nothing in the Bill to prevent the foreman from withdrawing the amount deposited by him and using the same for purposes of his own. But in clause 19 (4) we have provided that withdrawal of such amounts for purposes other than for which they have been deposited will be an offence for which the foreman can be punished. Then again with regard to the taking of the security by foreman from prized subscribers the provisions of the existing Act have been found to be entirely inadequate. Under the existing Act there is nothing to prevent the foreman from taking any security and thereby defrauding the non-prized subscribers. We have provided in the Bill that failure to take proper security and fraud or collusion practised by the foreman in that respect will be one of the reasons for which a chitty can be wound up. We have also given the non-prized subscribers the right to inspect the security bonds and to satisfy themselves that they are sufficient to safeguard their interests. Again, if a foreman purchases the property offered as security in court auction, the Bill says that it will remain as security for the amounts due to the other subscribers. The foreman can only hold it in trust for the subscribers. He cannot deal with it as he likes as he can do under the existing Act.

Future subscriptions realised in a lump have also to be deposited by the foreman, as also amounts to be paid to defaulter subscribers on the termination of the chitty. It is also provided that the foreman cannot claim as his commission more than 5 per cent of the chitty amount. In fact the position of the foreman has been reduced to that of a mere trustee who is paid a commission for the work he does on behalf of the subscribers. His freedom of contract is very much curtailed by the Bill.

MR. A. NESAMONY (*Kalkulam* cum *Vilavancode*): If he is reduced to the position of a trustee, will a suit against him be barred by limitation?

MR. JOSEPH VITHAYATHIL: According to this Bill if a winding up petition is filed a suit will not be necessary and the question of limitation will not arise. At present if a chitty collapses it is practically impossible for the subscribers to get anything out of the chitty assets. Numerous suits will have to be filed with numerous parties. Now the whole thing can be settled by means of a petition as in the case of a company.

MR. C. K. SANKARA PILLAI: With regard to the right of amendment of variola, can the honourable member say whether there is a condition for the right of amendment?

MR. JOSEPH VITHAYATHIL: We have provided that the variola can be amended only in respect of certain matters. Formerly it could be altered in any respect. Now it is provided that it can be altered only in respect of four specified matters.

MR. C. K. SANKARA PILLAI: May I ask the honourable member whether the alteration of the variola is not often done behind the subscribers?

MR. JOSEPH VITHAYATHIL: Very often it is so. That is exactly the reason why we have provided that the variola can be altered only in respect of certain matters. We have also thought it necessary to amend the definition of "special resolution" with this object in view.

MR. M. K. NILAKANTAN (*Mavelikkara* cum *Kunnattur*): പണം കൊടുക്കേണ്ട സമയത്തു പണം മുഴുവനും പിരിഞ്ഞു കിട്ടാതെയിരിക്കുന്നതു സാധാരണയാണോ? പണം കൊടുക്കേണ്ട സമയത്തു തലയാളന്മാർ പണം മുഴുവൻ കെട്ടിവയ്ക്കണമെന്നില്ലേ? അതിലേക്കുവേണ്ടി ചിട്ടി സ്വത്തുക്കൾ അന്യാധീനപ്പെടുത്താൻ അനുവദിക്കേണ്ടേ?

MR. JOSEPH VITHAYATHIL: പുതിയ ബില്ലിൽ അതിനുവേണ്ട വ്യവസ്ഥകൾ ചെയ്തിട്ടുണ്ട്. ചിട്ടി രജിസ്ട്രാരുടെ അനുവാദത്തോടുകൂടി അത്യാവശ്യ സന്ദർഭങ്ങളിൽ ചെയ്യാവുന്നതാണ്. എന്നാൽ മുന്നാളന്മാർക്കു ചിട്ടിസ്വത്തുക്കൾ അന്യാധീനപ്പെടുത്തുന്നതിനു അധികാരം കൊടുക്കുന്ന പക്ഷം അവർ ആ അധികാരം ദുരുപയോഗപ്പെടുത്താനാണു എളുപ്പം. അതുകൊണ്ടാണു ബില്ലിൽ ഭേദഗതി വരുത്തിയിരിക്കുന്നതു.

MR. P. O. THOMAS (*Kunnatunad cum Parur*): Is not the section which penalises a subscriber joining a void chitty a very hard provision?

MR. JOSEPH VITHAYATHIL: Such transactions are more or less of the nature of lotteries which may not strictly come within the definition of lottery under the Penal Code. There is nothing wrong in punishing all persons who co-operate in any manner in the conduct of such transactions.

MR. K. G. KUNJUKRISHNA PILLAI: Sir, so far as the details on which questions have been raised in this House are concerned, my honourable friend Mr. Joseph Vithayathil has explained the position, and I have nothing to add. All that I may add is this: When the matter comes before the Select Committee, there is nothing preventing the Select Committee from modifying the details in such manner as is necessary to suit the purpose, namely to protect the interests of the subscribers. That is one point on which the House and the Government are agreed. I may also say that chitty is a peculiar growth of Malabar. Even Mr. Logan in his Manual of the Malabar District has mentioned it. It is necessary to protect it and see that it is so conducted that the interests of the people are not defeated. That is the basic principle of the Bill, on which the House and the Government are agreed. If on matters of detail any improvement is possible there is nothing preventing the Select Committee from enacting those provisions and bringing the Bill before the House.

The motion that the Bill be read in the Assembly was put and carried.

SECRETARY: The title of the Bill shall be "The Travancore Chitties Bill".

MR. K. G. KUNJUKRISHNA PILLAI: I move that a Select Committee composed of the following persons be appointed to go into this Bill.

1. *Rajyasevanirata* S. Chattanatha Karayalar,
2. Mr. T. P. Velayudhan Pillai,
3. ,, A. K. Bhaskar,
4. ,, K. Balakrishna Menon,
5. ,, M. R. Ramakrishna Pillai,
6. ,, N. D. Parameswaran Nambudiri,
7. ,, T. K. Narayana Pillai,
8. ,, N. Kesava Pillai,
9. ,, K. R. Narayanan,
10. ,, C. K. Sankara Pillai,
11. ,, Joseph Vithayathil,
12. ,, M. L. Janardhana Pillai.

The motion was put and carried.

PRESIDENT: The House will now adjourn and the elections to the various committees will proceed under the presidency of the Deputy President.

The House adjourned at 3-40 P. M. to meet again the next day.

S. VAIDYANATHA AIYAR,

Secretary to the Sri Mulam Assembly.

Annexures.

AMENDMENT TO ORDER XXVIII OF THE CIVIL PROCEDURE CODE, 1100.

The following amendment to Order XXVIII of the Civil Procedure Code, 1100 (VIII of 1100) which has been proposed by the High Court under Section 91 of the said Code and which has to be laid before the Legislature under Section 94 of the said Code, is published for general information under Standing Order 39 of the Sri Mulam Assembly Standing Orders:—

Add the following as Rule 2A in Order XXVIII of the Code of Civil Procedure 1100 (VIII of 1100)—

"2A. The provisions of Rules 1 and 2 shall apply *mutatis mutandis* to any Indian Soldier as defined in the Indian Soldiers (Litigation) Act, 1116, and to any member of the Indian Navy."

Office of the Secretary to
the Sri Mulam Assembly,
Trivandrum, 20th July 1944.

B. PARAMU,
Secretary to the Sri Mulam Assembly.

R. O. C. No. 975/43/Legis.

The following Bill, together with the Statement of Objects and Reasons, is published, as ordered by the Dewan under Rule 31 of the Travancore Legislative Rules.

Huzur Cutcherry, Trivandrum, 26th August 1943.

G. PARAMESWARAN PILLAI,
Chief Secretary to Government.

THE TRAVANCORE WORKMEN'S COMPENSATION ACT (AMENDMENT) BILL.

AN ACT TO AMEND THE TRAVANCORE WORKMEN'S COMPENSATION ACT.

Preamble. Whereas it is expedient to amend the Travancore Workmen's Compensation Act for a certain purpose: It is hereby enacted as follows:—

Short title, extent and commencement.

1. (1) This Act may be called the Travancore Workmen's Compensation (Amendment) Act, 111

(2) It extends to the whole of Travancore.

(3) It shall come into force at once.

Amendment of Section 5, Act XIII of 1114.

2. In Section 5 of the Travancore Workmen's Compensation Act (XIII of 1114):—

(a) For the words "For the purposes of this Act the monthly wages of a workman shall be calculated" the following shall be substituted, namely:—

"In this Act and for the purposes thereof the expression 'monthly wages' means the amount of wages deemed to be payable for a month's service (whether the wages are payable by the month or by whatever other period or at piece rates), and calculated;"

(b) in clause (b), the words "deemed to be" shall be omitted.

Statement of Objects and Reasons.

In British India, the Workmen's Compensation Act of 1923 has been amended by Act XIII of 1939 for the purpose of clearing certain doubts raised with regard to the expression "employed on monthly wages" occurring in the definition of "Workman," in the said Act and to secure for the worker whose wages are paid otherwise than by the month or on monthly basis the benefits of the Act. It is necessary to make similar amendment in the Travancore Workmen's Compensation Act. Hence the Bill.

K. G. KUNJUKRISHNA PILLAI,
Legal Remembrancer to Government.

R. O. C. No. 109/44/Legis.

The following Bill, together with the Statement of Objects and Reasons, is published, as ordered by the Dewan, under Rule 31 of the Travancore Legislative Rules.

Huzur Cutcherry,
Trivandrum, 14th February 1944.

G. PARAMESWARAN PILLAI,
Chief Secretary to Government.

THE TRAVANCORE DISTRICT MUNICIPALITIES ACT (AMENDMENT) BILL.

A Bill to amend the Travancore District Municipalities Act.

Preamble.

Whereas it is expedient to amend the Travancore District Municipalities Act, 1116 (XXIII of 1116) for certain purposes;

It is hereby enacted as follows:—

Short title, extent and commencement.

1. (1) This Act may be called the Travancore District Municipalities (Amendment) Act, 1119.

(2) It extends to the whole of Travancore except to the City of Trivandrum within the meaning of the Trivandrum City Municipal Act.

(*b*) It shall come into force at once.

Amendment of Section 82. Act XXIII of 1116.

2. After Clause (*h*) of sub section (1) of Section 82 of the Travancore District Municipalities Act, 1116 (XXIII of 1116), herein-after referred to as the said Act, the following clause shall be inserted, namely.

"(*i*) buildings and lands declared by Our Government to be Palaces or Palace Grounds".

Amendment of Section 100,-Act XXIII of 1116.

3. In clause (*a*) of Section 100 of the said Act, between the words "carriages and animals" and the words "declared by Our Government" the words "belonging to Our Goverement or" shall be inserted.

STATEMENT OF OBJECTS AND REASONS.

The Bill is intended to bring the Travancore District Municipalities Act into conformity with the Trivandrum City Municipal Act in regard to the exemption of (*i*) Palaces and Palace Grounds from Property tax, and (*ii*) carriages and animals belonging to Government from carriage and animal tax.

By Section 97 (*e*) of the Trivandrum City Municipal Act, buildings and lands declared by Government to be Palaces or Palace grounds are exempt from property tax. There is no corresponding provision in the

District Municipalities Act. By Section 115 (*a*) of the Trivandrum City Municipal Act, carriages and animals belonging to Government or declared by Government as belonging to the Palaces or the Residency are exempt from carriage and animal tax. Under Section 100 (*a*) of the District Municipalities Act carriages and animals declared by Government as belonging to the Palaces or Residency are exempt from carriage and animal tax. Carriages and animals "belonging to Government" are not exempted from the tax. The principle on which the exemption is allowed under the Trivandrum City Municipal Act applies equally to the District Municipalities Act. The Bill is intended to remedy this defect.

K. G. KUNJUKRISHNA PILLAI,
Legal Remembrancer to Government.

R. O. C. No. 127/44/Legis.

The following Bill, together with the statement of Objects and Reasons, is published, as ordered by the Dewan, under Rule 31 of the Travancore Legislative Rules.

Huzur Cutcherry,
Trivandrum, 16th February 1944.

G. PARAMESWARAN PILLAI,
Chief Secretary to Government.

THE TRAVANCORE PROVIDENT FUNDS ACT (AMENDMENT) BILL.

A Bill further to amend the Travancore Provident Funds Act, 1116.

Preamble.

Whereas it is expedient further to amend the Travancore Provident Funds Act, 1116 (Act IX of 1116) as amended by Act I of 1118 for a certain purpose; It is hereby enacted as follows:—

Short title, extent and commencement.

1. (1) This Act may be called "The Travancore Provident Funds (Amendment) Act 1119,"

(2) It extends to the whole of Travancore.

(3) It shall come into force at once.

Amendment of Section II, Act IX of 1116.

2. In clause (a) of Section 2 of the Travancore Provident Funds Act, 1116 (Act IX of 1116) as amended by Act I of 1118, the words "for the purpose of the payment of premia in respect of a policy of insurance, or" shall be omitted.

STATEMENT OF OBJECTS AND REASONS.

"Compulsory deposit" is defined in Section 2 (a) of the Act as "a subscription to, or deposit in, a Provident Fund which, under the rules of the Fund is not until the happening of some specified contingency, repayable on demand otherwise than for the purpose of the payment of premia in respect of a policy of Life Insurance, or as a temporary withdrawl recoverable subsequently as provided for in the rules for the working of the Fund, and includes any contribution and any interest or increment which has accrued under the rules of the Fund on any such subscription, deposit, or contribution, and also any such subscription, deposit, contribution, interest or increment remaining to the credit of a subscriber or depositor, after the happening of any such contingency." The rules of some Provident Funds do not contain any provision for withdrawal for the payment of premia in respect of the policies of life insurance. It is also practically difficult in many cases to make sufficient safeguard to see that the money advanced for payment of such premia is not misused or that the policies are kept alive till maturity. Even the whole of the Provident Fund deposit made by a subscriber may be insufficient to keep alive till maturity the policy he has taken. Hence it is proposed by the Bill to omit the provision allowing withdrawal from the Provident Fund deposit for payment of premia.

K. G. KUNJUKRISHNA PILLAI,
Legal Remembrancer.

R. O. C. No. 110/44/Legis.

The following Bill, with the Statement of Objects and Reasons, is published, as ordered by the Dewan, under Rule 31 of the Travancore Legislative Rules.

Huzur Cutcherry,
Trivandrum 25th March 1944.

G. PARAMESWARAN PILLAI,
Chief Secretary to Government.

THE CIVIL PROCEDURE CODE (AMENDMENT) BILL.

Preamble.

Whereas it is expedient further to amend the Code of Civil Procedure, 1100 (Act VIII of 1100) as amended by Acts X of 1100, III of 1101, II of 1116, XXI of 1117 and VI of 1119 for a certain purpose:

It is hereby enacted as follows:—

Short title, extent and commencement.

1. (1) This Act may be called the Civil Procedure Code (Second Amendment) Act, 1119.

(2) It extends to the whole of Travancore.

(3) It shall come into force at once.

Amendment of Section 52 Act VIII of 1100.

2. In the proviso to sub-section (1) of Section 52 of the Code of Civil Procedure, 1100 (Act VIII of 1100) as amended by Acts X of 1100, III of 1101, II of 1116, XXI of 1117 and VI of 1119, the following shall be added as a new clause, namely:—

"(q) all compulsory deposits and other sums in or derived from any fund to which the Travancore Provident Funds Act 1116, for the time being applies in so far as they are declared by the said Act—not to be liable to attachment.'

STATEMENT OF OBJECTS AND REASONS.

Under Section 3 (1) of the Travancore Provident Funds Act (Act IX of 1116) a compulsory deposit in a Government Provident Fund is not liable to attachment under any decree or order of any Civil, Revenue or Criminal Court in respect of any debt or liablity incurred by the depositor. In British India, a provision to this effect is made in the Civil Procedure Code also. This is intented to help courts against overlooking the provisions of the Provident Funds Act. It is proposed to amend the Travancore Civil Procedure Code on the lines of the British Indian Code to make provision for the purpose. Hence the Bill.

K. G. KUNJUKRISHNA PILLAI,
Legal Remembrancer to Government.

R. O. C. 1471/44/Legis.

The following Bill, together with the Statement of Objects and Reasons, is published, as ordered by the Dewan, under Rule 31 of the Travancore Legislative Rules.

Huzur Cutcherry, Traivandrum, 29th July 1944.

G. PARAMESWARAN PILLAI,
Chief Secretary to Government.

THE TRAVANCORE TOWN PLANNING ACT (AMENDMENT) BILL.

A Bill to amend the Travancore Town Planning Act.

Whereas it is expedient to amend the Travancore Town Planning Act (IV of 1108) for certain purposes;

It is hereby enacted as follows :—

Short title extent and commencement.

1. (1) This Act may be called the Travancore Town Planning (Amendment) Act—

(2) It extends to the whole of Travancore.

(3) It shall come into force at once.

Amendment of Section 15, of Act IV of 1108.

2. For Section 15 of the Travancore Town Planning Act (IV of 1108) (hereinafter referred to as the said Act) the following section shall be substituted namely :—

"15. (1) After the publication of notification under Section 8 or Section 10—

Restrictions after declaration.

(a) no person shall within the area included in the scheme erect or proceed with any building or work or remove, pull down or alter any building or part of a building or remove any earth, stone or material unless such person has applied for and obtained the necessary permission, which shall be contained in a commencement certificate granted, in cases where the scheme has not been sanctioned, by the Municipal Council, and in other cases by the responsible authority, in the form prescribed.

(b) the Municipal Council or the responsible authority, as the case may be, on receipt of such application, shall furnish the applicant with a written acknowledgment of its receipt, and after inquiry may either grant or refuse such certificate or grant it subject to such conditions as may be consistent with the scheme, but if no decision is communicated to the applicant within three months, from the date of such acknowledgment, he shall be deemed to have been granted such certificate.

(c) if in the opinion of the Muncipal council or the responsible authority, any person contravenes the provisions contained in clause (a) or clause (b), the Muncipal council or the responsible authority after making enquiry in the prescribed manner may by notice in writting direct such person to stop any work in progress.

(d) any expenses incurred by the Municipal council or responsible authority under clause (c) shall be a sum due to the Municipal council or responsible authority under this Act from the person in default.

(2) No person shall be entitled to compensation in respect of any damage, loss or injury resulting from any action under the provisions of this section or of section 17 except in respect of a building or work begun or contract entered into before the date of publication of the notification under Section 8 or Section 10 and only in so far as such building or work has proceeded at the time of the publication of such notification.

(3) The restrictions imposed by this Section shall cease to operate in the event of failure to prepare a draft scheme within two years of the date of publication of notification under Section 8 or Section 10 or in the event of Our Government refusing to sanction the scheme under Section 12."

Amendment of Section 18, Act IV of 1108.

3. In Section 18 of the said Act, the following words shall be omitted, namely :—

"by any refusal to grant the permission applied for under Section 15 or."

Amendment of Section 41, Act IV of 1108.

4. After clause (b) of sub-section (2) of Section 41 of the said Act, the following new clauses shall be inserted namely:—

"(b-1) the form of the commencement certificate to be granted under clause (a) to sub-section (1) of Section 15 and the conditions, if any, to be included therein.

(v-2) the procedure to be followed in making an inquiry under clause (c) of sub-section (1) of Section 15."

STATEMENT OF OBJECTS AND REASONS.

Section 15 of the Travancore Town Planning Act provides that after the publication of a notification deciding to prepare a scheme, no person shall erect or proceed with any building or work or enter into or carry out a contract in respect of land within the area included in the scheme unless he has obtained permission from the proper authority. This Section is intended to allow owners and others in possession of lands, in respect of which a declaration to include them in a Town Planning Scheme is published, to make beneficial use of land during the period between such notification and the actual operation of the Scheme. But it has been found that to give effect, to this object certain rules have to be framed regulating such use. Doubts have arisen whether the wording of Section 15 would allow such rules being framed. In order to put the matter beyond doubt it is proposed to amend Section 15. The amendment suggested allows the framing of appropriate rules. The amended section is based on Section 15 of the Bombay Town Planning Act, 1915. The other amendments are consequential. Hence the Bill.

K. G. Kunjukrishna Pillai,
Legal Remembrancer to Government.

R. O. C. No. 1622/44/Legis.

The following Bill, together with the Statement of Objects and Reasons, is published, as ordered by the Dewan, under Rule 31 of the Travancore Legislative Rules.

Huzur Cutcherry,
Trivandrum,
12th August 1944.

G. PARAMESWARAN PILLAI,
Chief Secretary to Government.

THE TRAVANCORE TRADE BOARDS BILL.

A Bill to provide for the establishment of Trade Boards for certain trades and to regulate and fix the payment of wages to workers in such trades.

Preamble.

Whereas it is expedient to provide for the establishment of Trade Boards for certain trades and to regulate and fix the payment of wages to workers in such trades; It is hereby enacted as follows:—

Preliminary.

Short title, extent, commencement and application.

1. (1) This Act may be called the Travancore Trade Boards Act, 11 .

(2) It extends to the whole of Travancore.

(3) It shall come into force on such date as our Government may by notification, in Our Government Gazette appoint.

(4) It shall apply to such trades or class of trades or branches of work in trades as Our Government may, from time to time, by notification in our Government Gazette, direct

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,-

(*a*) "Board" means a Trade Board constituted under this Act;

(*b*) "Factory" means a factory as defined in Clause (j) of Section 2 of the Travancore Factories Act, VIII of 1114;

(*c*) "Industrial Establishment" "Plantation" and "wages" shall have the same meanings as in the Travancore Payment of Wages Act 1116;

(*d*) "Mine" means a mine as defined in the Travancore Mines and Minerals Act, (III of 1103);

(*e*) "Trade" includes a factory, industrial establishment, mine or plantation or any other business which Our Government may, from time to time, by Notification in Our Government Gazette declare;

(*f*) "Worker" means a worker as defined in Clause (*h*) of Section 2 of the Travancore Factories Act, VIII of 1114.

Exemption.

3. If at any time Our Government are satisfied that the conditions of employment in a trade or a class of trades or in any branch of work in a trade to which this Act applies have been so altered as to render the aplication of this Act to the said trade, class of trades or branch of work in the trade unnecessary, they may, by notification, in Our Government Gazette, exempt to such trade, class of trades or branch of work in the trade for such periods and subject to such conditions as they maythink fit to impose.

Exemption

Establishment, Constitution, duties and powers, and dissolution of Trade Boards.

4. (1) Our Government may, by notification in Our Government Gazette, establish one or more Boards for any trade or class of trades or for any branch of work in a trade to which this Act applies.

Establishment, constitution and proceedings of Boards.

(2) Where a board has been established for any branch of work in a trade, an y reference in this Act to the trade for which the Board is established shall be construed as a reference to the branch of work in the trade for which the Board has been established.

(3) A Board shall consists of an officer specially nominated as Chairman by Our Government and four members to be nominated by Our Government, two from among the employers in their trade and two to represent the workers in their trade :

Provided that in the case of a Board for any trade in which women are largely employed, Our Government may, if they are satisfied that the circumstances of the trade require it, nominate an additional member who shall be a woman to represent the women workers in their trade.

(4) Women shall be eligible as members of Boards as men.

(5) The members shall hold office for a period of three years. Any member who is absent from Travancore for a continuous period exceeding three months or who is absent from three consecutive meetings of the Board shall *ipso facto* cease to be a member. Any member other than the Chairman may resign by notice in writing to the Chairman

(6) Any member ceasing to be a member in the manner indicated in sub-section (5) shall be eligible for renomination.

(7) Any vacancy created by death or incapacity to act or in the manner indicated in sub-section (3) may be filled by Our Government, and such memb r shall hold office so long only as a member in whose place he is nominated would have held office if the vacancy had not occurred.

(8) At a meeting of the Boad, three members shall form the quorum and the Chairman shall be entitled to vote and in cases of equality of votes shall have a second or casting vote,

(9) It shall be lawful for the Board, subject to the provisions of this Act, to regulate their proceedings in such manner as they think fit.

(10) The proceedings of the Board shall not be invalidated by any vacancy in their number or by any defect in the nomination of any member.

General duties of Boards.

5. A Board for any trade or a class of trades shall consider as occasion requires any matter referred to them by Our Government with reference to the industrial conditions of the trade or class of trades and shall make a report upon the matter to Our Government.

Duties and powers of Boards with respect to minimum rates of wages.

6. (1) Every Board shall subject to the provisions of this section, fix a minimum rate of wages for timework in their trade (in this Act referred to as "a general minimum time-rate") and may also fix for their trade,—

(a) a general minimum rate of wages for piece-work (in this Act referred to as "a general minimum piece-rate");

(b) a minimum time-rate (which shall not be higher than the general minimum time-rate to apply in the case of workers employed on piece-work for the purpose of securing to such workers a minimum rate of remuneration on a time-work basis (in this Act referred to as "a guaranteed time-rate"); and

(c) a minimum rate "whether a time rate or a piece-rate" to apply in substitution for the minimum rate which would otherwise be applicable in respect of hours worked by a worker in any week or on any day in excess of the number of hours declared by the Board to be the normal number of hours of work per week or that day in the trade in this Act referred to as "an over-time rate").

(2) Any of the minimum rates under sub-section (1) may be fixed so as to apply universally to the trade or so as to apply to any special process in the work of the trade or to any special area, or to any class of workers in the trade, or to any class of workers in any special process or in any special area.

(3) The power of a Board to fix the the minimum rate of wages shall include the power to fix a series of minimum rates to come into operation successively on the expiration of specified periods, and the power to vary a minimum rate shall include the power so to vary a rate that the variation shall be operative only during a specified period.

(4) The expression "minimum time-rate" includes the time-rate of any kind fixed under the provisions of this Act.

(5) If a Board report to Our Government that it is impracticable in any case to fix a general minimum time-rate in accordance with sub-section (1), Our Government may take such action as they deem fit.

(6) A Board, may, if they think it expedient, cancel or vary any minimum time-rate or general minimum piece-rate fixed under this Act, and shall reconsider any such minimum rate, if Our Government direct them to do so, whether an application is made for the purpose or not.

(7) A Board shall on the application of any employer fix a special minimum piece-rate to apply as respects the persons employed by him in cases to which a general minimum time-rate or a piece-work basis time rate but no general minimum piece-rate is applicable, and may as they think fit, cancel or vary any such rate either on the application of the employer or after notice to the employer, such notice to be given not less than one month before the cancellation or variation of any such rate.

(8) Before fixing, cancelling or varying any minimum rate of wages, not being a special minimum piece-rate, the Board shall give notice of the rate which they propose to fix, or of their proposal to cancel the rate, or of the proposed variation in the rate, as the case may be, and shall consider any objections to the proposal which may be lodged with them within two months from the date of the notice.

(9) Where a Board fix a special minimum piece-rate under sub-section (7) or cancel or vary any rate fixed under the said sub-section, they shall give to the employer notice of the fixing, cancellation or variation as the case may be.

Provision for case of persons employed by piece-work where a minimum time-rate but no general minimum piece-rate has been fixed.

7. (1) An employer shall, in cases where persons are employed on piece-work and a general minimum time-rate but no general minimum piece-rate has been fixed, be deemed to pay wages at less than the minimum rate,—

(a) in cases, where a special minimum piece-rate has been fixed under the provisions of this Act for persons employed by that employer, if the rate of wages paid is less than that special minimum piece-rate; and

(b) in cases where a special minimum piece-rate has not been so fixed, unless he shows that the piece-rate of wages paid would yield, in the circumstances of the case, to an ordinary worker at least the same amount of money as the basis rate.

(2) For the purpose of this section the expression "basis rate" means the General minimum time rate or, where a rate (in this Act referred to as a "piece-work basis time rate") has been fixed by the Board for the purpose of being substituted for the general minimum time-rate as the basis rate, the rate so fixed.

(3) A Board may fix a piece-work basis time-rate in any case in which, having regard to all the circumstances of the case, they are of opinion that the General minimum time-rate does not form a proper basis for the purpose of paragraph (b) of sub-section (1) and a piece-work basis time-rate may be higher or lower than the general minimum time-rate and may be fixed so as to apply universally to the trade or so as to apply to any special process in the work of the trade or to any special area or to any class of workers in the trade or to any class of workers in any special process or in any special area.

Permit to employ worker on payment of wages at less than minimum rate.

8. If a board are satisfied that any worker employed or desiring to be employed in any branch of a trade to which a general minimum time-rate, a guaranteed time-rate or a time-work over time-rate is applicable is affected by any infirmity or physical injury which renders him incapable of earning that minimum rate and, where the worker is not already employed on piece-work are of opinion that the case cannot suitably be met by employing him on piece work, the Board may, if they think fit, grant to the worker subject to such conditions if any, as they prescribe a permit exempting the employment of the worker from the provisions of this Act relating to the payment of wages at less than the minimum rate, and while the permit is in force the employer shall not be liable for paying wages to the worker at a rate less than the minimum rate so long as the conditions prescribed by the Board on the grant of the permit are complied with.

Provisions as to orders for confirming minimum rate or cancellation or variation of rate.

9. (1) Where a Board have fixed any minimum rate of wages, not being a special minimum piece-rate, or have cancelled or varied any such rate, they shall forthwith send a report thereof to Our Government, and the report may include a statement as to the date as from which the Board suggest that the rate, or the cancellation or variation should become effective.

(2) Our Goverment on receipt of the report under this section with respect to any matter shall forthwith take the matter into their consideration, and, unless they think it necessary to refer the matter back to the Board for reconsideration, shall, as soon as may be, make an order confirming the rate, or the cancellation or variation, as the case may be: An order so made shall be published in Our Government Gazette:

Provided however that Our Government may for reasons to be recorded in writing decline to act on the recommendations of the Board.

(3) Our Government shall, as soon as may be, after they have made an order under this section send notification thereof to the Bord concerned, and the Board shall, as soon as may be after receiving the notification, give notice of the making of the order and the contents thereof.

(4) Any such minimum rate as aforesaid or the cancellation or the variation of any such rate shall become effective as from the date specified in that behalf in the order by which it is confirmed.

(5) the date to be specified under sub-section (4) shall be a date subsequent to the date of the order, and where as respects any employer who pays wages at intervals not exceeding seven days the date so specified does not correspond with the beginning of the period for which wages are paid by that employer the rate shall become effective as from the beginning of the next such period following the date specified in the order.

Government's power to dissolve Boards.

10. (1) If in the opinion of Our Goverument a Bord are not competent to perform or persistently make default in performing the duties imposed on them by law, or exceed or abuse their powers, Our Government may by notification in Our Government Gazette direct that the Board shall be dissolved and re-constituted on such date as Our Government may fix in that behalf:

Provided that Our Government may in their discretion from time to time extend the time fixed by them under this sub-section for their reconstitution.

(2) Before publishing a notification under sub-section.

(1) Our Government shall communicate to the Board concerned the grounds on which they propose to do so, fix a reasonable period for the Board to show cause against the proposal and consider their explanations or objections, if any.

(3) On the date fixed for the dissolution of the Board under sub-section (1) all their members as well as their Chairman shall forthwith be deemed to have vacated their office and fresh nominations shall be made in accordance with the provisions of this Act. The newly nominated members shall enter upon their offices on the date fixed for the reconstitution of the Board.

(4) On the dissolution of a Board under sub-section (1) all or any of the functions of the Board and of their Chairman may during the period up to the reconstitution of the Board be exercised and performed as far as may be and to such extent as Our Government may determine by such authority as Our Government may appoint in that behalf.

(5) Our Government may reconstitute the Board before the expiry of the period notified under sub-section (1)

Offences and Penalties.

Employer to keep records of wages.

11. It shall be the duty of every employer in a trade to which a minimum rate is applicable to keep such records of wages as are necessary to show that the provisions of this Act are being complied with as respects persons in his employment, and if he fails to do so, he shall be liable on conviction in respect of each offence to a fine not exceeding fifty rupees and also to a fine not exceeding five rupees for every day during which the default continues after conviction.

12. (1) Where any minimum rate of wages fixed by a Board has becometeffective an employer shall, in cases to which the minimum rate is applicable, pay wages to the person employed at not less than the minimum rate, clear of all deductions, and if he fails to do so shall be liable on conviction to a fine not exceeding two hundred rupees and to a fine not exceeding twenty rupees for each day on which the offence is continued after conviction therefor.

Penalty for not paying wages in accordance with minimum rates.

Explanation. The term "deductions" in this sub section shall have the same meaning as is given to it in the Travancore Payment of Wages Act, 1116.

(2) On the conviction of an employer under this section for failing to pay wages at not less than the minimum rate to a person employed, the Court may by the conviction adjudge the employer convicted to pay, in addition to any fine, such sum as appears to the Court to be due to the person employed on account of wages, the wages being calculated on the basis of the minimum rate, but the power to order the payment of wages under this provision shall not be in derogation of any right of the person employed to recover wages by any other proceedings.

(3) On any prosecution of a person for failing to pay wages at not less that the minimum rate, it shall lie on that porson to prove that he has not paid wages at less than the minimum rates.

(4) Any agreement for the payment of wages in contravention of the provisions of this section shall be void.

13. (1) Where an offence for which an employer is by virtue of this Act liable to a fine has in fact been committed by some agent of the employer or other person, that agent or other person shall be liable to be proceeded against for the offence in the same manner as if he were the employer and either together with or before or after the conviction of, the employer, and shall be liable on conviction to the same punishment as that to which the employer is liable.

Liability of agent or other person.

(2) Where an employer who is charged with an offence against this Act proves to the satisfaction of the Court that he has used due deligence to enforce the execution of this Act, and that the offence was in fact committed by his agent or some other person without his knowledge, consent or connivance he shall in the event of the conviction of that agent or other person for the offence be exempt from any fine in respect of the offence, without projudice, however, to the power of the Court under sub-section (2) of Section 12 to adjudge him to pay any sum which appears to the Court to be due to the person employed on account of wages.

(3) Where the immediate employer of any worker to whom a minimum rate of wages applies is himself in the employment of some other person and that worker is employed on the premises of that other

person, that other person shall for the purpose of the provisions of this Act relating to the penalty for not paying wages in accordance with the minimum rate be deemed to be the employer of the worker jointly with the immediate employer.

Prevention of evation.

14. Any shopkeeper, dealer, or trader who by way of trade made any arrangement, express or, implied, with any worker in pursuance of which the worker performs any work for which a minimum rate of wages has been fixed under this Act, shall be deemed for the purposes of this Act, to be the employer of the worker, and the net remuneration obtainable by the worker in respect of the work after allowing for his necessary expenditure in connection with the work shall be deemed to be wages.

Employers not to receive premium where minimum rates in force.

15. (1) Where a worker in any trade, being a person to whom a minimum rate of wages fixed by a Board applies is an apprentice or learner, it shall not be lawful for his employer to receive directly or indirectly from him, or on his behalf or on his account, any payment by way of premium:

Provided that nothing in the foregoing provision shall apply to any such payment duly made in pursuance of any instrument of apprenticeship not later than four weeks after the commencement of the employment.

(2) If any employer acts in contravention of the provisions of sub-section (1) he shall be liable on conviction in respect of each offence to a fine not exceeding two hundred rupees and the Court may by the conviction in addition to imposing fine, adjudge him to repay to the worker or other person by whom the payment was made the sum improperly received by way of premium.

Miscellaneous.

Worker waiting for work on employer's premises to be deemed to be employed.

16. For the purpose of calculating the amount of the wages payable in the case of a worker employed on any work for which a minimum rate of wages has been fixed under this Act, the worker shall be deemed to have been employed during all the time during which he was present on the premises of the employer unless the employer proves that he was so present without the employer's consent, express or implied, or that he was so present for some purpose unconnected with his work and other than that of waiting for work to be given to him to perform, and in the case of a worker employed on piece-work shall be deemed during any time during which he was so present and was not doing piece-work to have been employed at the general minimum time-rate applicable to workers of the class to which he belongs:

Provided that—

(*a*) where a worker resides on the premises of the employer, he shall not be deemed to be employed during any time during which he is present on the premises by reason only of the fact that he is so resident; and

(b) a worker while present during normal meal-times in a room or place in which no work is being done shall be deemed to be present for a purpose unconnected with his work.

Consideration by Board of complaints as to infraction of minimum rates.

17. Any worker or any person authorised by a worker may complain to the Board that the wages paid to the worker by any employer in any case to which any minimum rate fixed by the Board is applicable are at a rate less than the minimum rate, and the Board may consider the matter and may, if they think fit, take any proceeding under this Act on behalf of the worker.

Appointment of Officers and other provisions for enforcing the Act.

Appointment of officers.

18. (1) Our Government may appoint such officers as they think necessary for the purpose of investigating any complaints and otherwise securing the proper observance of this Act, and any officer so appointed shall act, under the directions of Our Government.

(2) Our Government may also, in lieu of or in addition to appointing any officers under the provisions of this section, if they think fit, arrange with any of Our Government Department for assistance being given in carrying this Act into effect, generally or in any special cases, by officers of that Department whose duties bring them into relation with any trade, class of trades or any branch of work in a trade to which this Act applies.

Powers of officers.

19. (1) Any officer appointed by Our Government under this Act, and any officer of Our Government Department, for the time being assisting in carrying this Act into effect, shall have power for the performance of his duties:—

(a) to require the production of wages sheets or other record of wages by an employer, and records of payments made to out-workers by persons giving out-work, and to inspect and examine the same and copy any material part thereof;

(b) to require any person giving out work and any outworker to give any information which it is in his power to give with respect to the names and addresses of the persons to whom the work is given out or from whom the work is received, as the case may be, and with respect to the payments to be made for the work;

(c) at all reasonable times with or without notice to enter any factory or workshop and any place used for giving out work to outworkers;

(d) to inspect and copy any material part of any list of outworkers kept by an employer or person giving out work to out workers;

(e) to examine either alone or in the presence of any other person, as he thinks fit, with respect to any matters under this Act any person whom he finds in any factory or workshop or any place used for giving out work to outworkers, or whom he has reasonable cause

to believe to be or to have been a worker in any trade to which a minimum rate under this Act is applicable and to require every such person to be so examined and to sign a declaration of truth of the matters in respect of which he is so examined; and

(*f*) to initiate proceedings ordered by Our Government.

(2) If any person fails to furnish the means required by an officer as necessary for an entry or inspection or the exercise of his powers under this section, or if any person hinders or molests any officer in the exercise of the powers given by this section, or refuses to produce any document or give any information which any officer requires him to produce or give under the powers given by this section, that person shall be liable on conviction in respect of each offence to a fine not exceeding fifty rupees; and if any person makes or causes to be made or knowingly allowed to be made any wages sheet, or record of wages or record of payments, or any list of out-workers which is false in any material particular, or produces or causes to be produced or knowingly allows to be produced any such sheet, record or list to any officer acting in the exercise of the powers given by this section, knowing the same to be false, or furnishes any information to any such officer knowing the same to be false, he shall be liable on conviction, to a fine not exceeding two hundred rupees or to imprisonment for a term not exceeding three months.

Power to take and conduct proceedings.

20. (1) Any officer appointed by Our Government under this Act, and any officer of any of Our Government Departments for the time being assisting in carrying this Act into effect, shall have power in pursuance of any special or general directions of Our Government to take proceedings under this Act.

(2) Any officer appointed by Our Government under this Act or any officer of any of Our Government Departments for the time being assisting in carrying this Act into effect may prosecute or conduct before a Court any proceedings arising under this Act.

Cognisance of offences.

21. No Court inferior to that of a Magistrate of the first class shall try an offence under this Act.

Supplemental.

Rules as to mode of giving notice.

22. (1) Our Government shall make rules as to the notice to be given of any matter under this Act, with a view to bringing the matter of which notice is to be given so far as practicable to the knowledge of persons affected.

(2) Every occupier of a factory or workshop, or of any place used for giving out work to outworkers shall in the manner directed by rules under this section, fix any notices in his factory or workshop or the place used for giving out work to outworkers which he may be required to fix by the rules, and shall give notice in any other manner, if required by the rules, to the persons employed by him of any matter of which he is required to give notice under the rules.

(3) If the occupier of a factory or workshop or of any place used for giving out work to outworkers fails to comply with the provisions of this section, he shall be liable on conviction in respect of each offence to a fine not exceeding two hundred rupees.

STATEMENT OF OBJECTS AND REASONS.

The Board constituted by Government to equire into and investigate the conditions of labour in the State with a view to settling disputes on a conciliation basis, in their report, have recommended to Government the desirability of fixing minimum wages with the assistance of a wage-fixing machinery constituted on a statutory basis and functioning on the lines of the British Trade Boards. Representations have also been received from several labour associations and unions in the State urging Government to enact a law for the constitution of Wages Boards and the fixation of minimum wages for labourers engaged in different trades in the State. Government, after carefully considering the recommendations and representations, are satisfied that it is necessary in the interests of labour, that proper machinery for fixing wages on a statutory basis should be constituted. Hence the Bill.

The Bill, though drawn largely on the lines of the British Trade Board Acts 1909 and 1918, contain a few additional provisions. The main feature of the Bill is that it provides for the establishment and constitution of Trade Boards for those trades to which the Bill applies and the introduction of minimum rates of wages for workers engaged in such trades. The Trade Boards will be constituted by the Government and will consist of five members nominated by them, two of whom to represent the employers in their trade and two to represent the workers in their trade. The Chairman of the Board will be an officer of the Government. The Board has power to fix minimum rates of wages for workers both on time-work basis and on piece-work basis. Different rates may be fixed for different trades and for different classes of workers. They have also power, on their own initiative or on the application made to them, to cancel or vary any minimum rate fixed by them. The rates fixed, varied or cancelled by the Board will take effect only on confirmation by the Government. An employer who does not pay wages in accordance with minimum rates shall be liable on conviction to a fine which may extend to two hundred rupees. Agents of the employer or other persons are equally liable to be proceeded against for the offences for which an employer is liable. Government have power to dissolve a Trade Board, if they are satisfied that they are not competent to perform or persistently make default in performing the duties imposed on them by law, after giving them an opportunity of being heard. When a Board is dissolved the functions and duties of the Board will be carried on by such authority as Government may appoint.

K. G. Kunjukrishna Pillai,
Legal Remembrancer to Government.

R. O. C. No. 1574/44/Legis.

The following Bill, together with the Statement of Objects and Reasons, is published, as ordered by the Dewan, under Rule 31 of the Travancore Legislative Rules.

Huzur Cutcherry, Trivandrum, 7th August 1944.

G. PARAMESWARAN PILLAI, *Chief Secretary to Government.*

THE TRAVANCORE CHITTIES BILL.

Preamble.

Whereas it is expedient to define, amend and consolidate the law relating to Chitties; It is hereby enacted as follows:—

PART I.

PRELIMINARY.

Short title, commencement and extent.

1. (1) This Act may be called the Travancore Chitties Act, 11 ,

(2) It shall come into force at once.

(3) It extends to the whole of Travancore.

Saving and application.

2. (1) The provisions of this Act save those contained in Part X, shall not apply to a chitty of which the first drawing has been conducted before the commencement of this Act.

(2) The provisions contained in Part X of this Act shall apply so far as may be, to all chitties whether started before or after the commencement of this Act.

Definitions.

3. In this Act, unless there be something repugnant in the subject or context,

(1) "Approved Bank" means a bank approved by Our Government fr m time to time for the purposes of this Act;

(2) A "Chitty" means a transaction by which one or more persons hereinafter called the foreman or foremen enter into an agreement with a number of persons that every one of the contracting parties shall subscribe a certain amount of money or quantity of grain by periodical instalments for a certain definite period and that each in his turn, as determined by lot or by auction or in such other manner as may be provided for in the variola, shall be entitled to the prize amount:

Explanation I. A transaction in which the right to a prize is wholly dependent upon the drawing of lots and whereby some alone, but not all of the subscribers, get the prize without any liability to pay future contributions is not a Chitty within the meaning of this clause.

Explanation II. A transaction in which all the subscribers get prizes by turns with a liability to pay future contributions is not a Chitty if the prize winner is not entitled to get the prize amount as defined in clause (9) of this Section.

Illustration. A starts a chitty with 200 subscribers each of whom pays a monthly instalment of Rs. 10 for 120 instalments. One prize is drawn every month up to the fortieth instalment and thereafter two prizes every month until all the subscribers get their prizes. Out of the total monthly collection of Rs. 2000, Rs. 200 is set apart for 'discount' and the prize winner is paid Rs. 1000. The foreman is allowed the use of the balance of Rs. 800 until the same is required for payment to the prize winners. The transaction is not a chitty.

(3) 'Chitty amount' means the sum total of the contributions payable by all the subscribers for any instalment without any deduction for discount as defined in Clause (4).

(4) "Discount" means the amount of money or quantity of grain which a prize winner has, under the terms of the variola, to forego for the payment of veethapalisa, foreman's commission or other expenses;

(5) "Drawing" includes the mode of ascertaining the prize winner at any instalment of the Chitty by lot or by auction or in any other manner as may be provided for in the variola;

(6) "Foreman" is the person who, under the variola, is responsible for the conduct of the Chitty; and includes all persons taking his place under Section 38;

(7) "Non-prized subscriber" does not include a defaulter subscriber;

(8) "Prescribed" means prescribed by rules made under this Act;

(9) "Prize amount" means "the chitty amount" less "the discount"; it includes, in the case of a fraction of a ticket, the difference between the proportionate "chitty amount" and the "discount" on the particular fraction of the ticket; when the prize is payable in movables, it means the value thereof at the time it becomes payable;

(10) "Registrar" means an officer appointed by Our Government under Section 62 of this Act;

(11) "Special resolution" means a resolution which is passed at a meeting, specially convened for the purpose, of the general body of subscribers, by a majority of not less than two-thirds of the subscribers present at the meeting in person or by proxy, such majority being subscribers representing not less than three fourths in value of the general body of non-prized and unpaid prized subscribers, if any;

(12) "Subscriber" includes a person who holds a fraction of a ticket, and also a transferee by assignment in writing or by operation of law;

(13) "Ticket" means the share of a subscriber in a Chitty which entitles the holder thereof to the Chitty amount at any one instalment with or without any deduction by way of discount;

(14) "Variola" is a document containing the articles of agreement between the foreman and the subscribers relating to the Chitty;

(15) "Veethapalisa" is the share of a subscriber in the discount available under the variola for rateable distribution among the subscribers at each instalment of the chitty.

PART II.

OF CONSTITUTION AND REGISTRATION.

What transactions void.

4. Transactions partaking of the nature of a chitty but not falling within the definition in clause (2) of Section 3 are void.

Punishment for partaking in transactions declared void by Section 4.

5. Any person who conducts or is responsible for the conduct of any transaction of the nature of those declared void by Section 4 and any person who pays any money towards any such transaction shall be punishable with imprisonment of either description for a term which may extend to six months or with fine or with both.

Prohibition of chitty not registered under this Act.

6. (1) No chitty shall, after the commencement of this Act, be conducted unless it is registered in accordance with the provisions of this Act.

(2) Whoever contravenes the provisions of sub-section (1) shall be liable to a fine which may extend to five hundred rupees.

Saving of some chitties.

7. (1) Notwithstanding anything contained in Section 6, the provisions of this Act shall not apply to a chitty if the "chitty amount" or the value thereof is less than one hundred rupees.

Provided however no person shall conduct such a chitty without taking a license in such manner and subject to such conditions as may be prescribed by Our Government.

(2) Whoever conducts a chitty of the class specified in sub-section (1) without taking a license as provided therein or violates any of the conditions of the license shall be liable to a fine which may extend to fifty rupees.

Variola.

8. In every chitty there shall be a variola in duplicate signed by each of the subscribers or by a person authorised in writing by the subscriber in that behalf. Such signature shall be attested by at least one witness.

Particulars of variola.

9. Such variola shall contain,—

(1) the full name and residence of every subscriber;

(2) the number of tickets or the fraction, thereof held by each subscriber;

(3) the number of instalments and the amount payable for each ticket at every instalment;

(4) the date on which the Chitty is to begin and the date on which it is to terminate;

(5) the mode of ascertaining the prize winner at the successive instalments;

(6) the amount of minimum discount which a prize winner at any instalment has to forgo;

(7) the mode and proportion in which the discount is distributable by way of veethapalisa, foreman's commission and other allowance if any;

(8) the time and place at which the chitty is to be conducted;

(9) the instalment at which the foreman is to get the prize;

(10) the approved bank or banks in which, chitty moneys shall be invested by the foreman under the provisions of this Act;

(11) the consequences which a non-prized or prized subscriber, or the foreman will be liable to in case of any violation of the provisions of the variola;

(12) the nature and particulars of the security offered by the foreman under Section 17; and

(13) any other particulars that may from time to time be prescribed by Our Government.

Registration.

10. Every variola with its duplicate shall be filed by the foreman with the Registrar who shall register and return the variola with an endorsement that the chitty is registered.

On the registration of the variola, the Registrar shall endorse on the duplicate a certificate that the chitty is registered, and retain it in his office.

Effect of registration.

11. Every such endorsement shall be conclusive evidence that the Chitty is duly registered under this Act.

Copies of variola to be given to subscribers.

12. (1) Every subscriber to a chitty shall be supplied by the foreman with a true copy certified as such by the foreman of the variola within fourteen days of the first drawing thereof.

(2) If a foreman makes default in complying with the requirements of this Section, he shall be liable to a fine not exceeding fifty rupees

Alteration of variola.

13. (1) Subject to the provisions of this Act and to the conditions contained in the variola, the subscribers to a chitty may, by a special resolution, alter or add to the articles in the variola in respect of any one or all of the following matters, namely,—

(i) the time at which or the place where the chitty is to be conducted;

(ii) the reduction of the chitty amount;

(iii) the continuance of the chitty in accordance with the provisions of Section 38; or

(iv) the suspension or prolongation of the chitty,

Any such alteration or addition shall be as valid as if originally contained in the variola and shall be subject in like manner to alteration or addition by a special resolution.

(2) A true copy of every special resolution passed under sub-section (1) shall be filed by the foreman with the Registrar within fourteen days of the date of such resolution in default of which the foreman shall be liable to a fine not exceeding one hundred rupees.

(3) Every subscriber shall be supplied by the foreman by registered anchal or post with a copy of every special resolution within fourteen days of the date of such resolution. in default of which the foreman shall be liable to a fine not exceeding fifty rupees.

Time and place of conducting chitty.

14. Every drawing of prizes in a chitty shall be conducted at the time and place mentioned in the variola and in accordance with the provisions contained therein.

Minute of proceedings.

15. A minute of the proceedings of every drawing shall be kept in a book and shall be signed by the foreman, the prize winner or winners and at least two of the other subscribers, if present. Such minute shall state clearly,—

(1) the date and hour when, and the place where, the proceedings began and ended;

(2) the number of the particular instalment of the chitty of which the proceedings are recorded;

(3) the names of the subscribers present;

(4) the person or persons who obtain the prize;

(5) the amount of discount; and

(6) full particulars regarding the disposal of the prize money in respect of the preceding instalment and disposal of unpaid prize amount if any, in respect of any previous instalment.

Copy of minute to be filed with Registrar.

16. (1) A true copy of such minute shall be filed by the foreman with the Registrar within fourteen days from the date of such instalment.

(2) If the foreman makes default in complying with the requirements of this Section or Section 15, he shall be liable to fine not exceeding fifty rupees.

PART III.

Of The Foreman.

17. (1) Every foreman shall, before the first drawing of the Chitty execute a bond in favour of or in trust for the other subscribers for the proper conduct of the chitty, charging property sufficient to the satisfaction of the Registrar or any officer empowered by our Government in that behalf for the realisation of twice the chitty amount or depositing cash in any approved bank, of not less than the chitty amount.

Security to be given by foreman.

Provided however, that, if the property charged by way of security be movable property the same shall be deposited in such manner as may be provided for in the variola, or with such authority as Our Government may appoint in this behalf:

Provided also, however. that cash security of not less than 50 per cent. of the chitty amount may be deposited before the registration of the chitty and the balance within seven days after the receipt by the foreman of his prize money under clause (9) of Section 9, in cases where the foreman himself is a subscriber to a full ticket in the chitty.

(2) Any foreman contravening the provisions of sub-section (1) shall be liable to a fine not exceeding five hundred rupees.

18. The foreman shall be entitled—

The rights of a foreman.

(1) unless otherwise provided for in the variola—

(*a*) to obtain his prize at the instalment specified in the variola without any deduction or discount, and

(*b*) to such commission or remuneration not exceeding five per cent. of the chitty amount as may be fixed in the variola for the conduct of the chitty;

(2) to receive and realise all contributions for the subscribers, and to distribute the veethapalisa among them;

(3) to demand reasonable security from any prized subscriber for the amount of future subscription payable by him;

(4) to substitute subscribers in the place of defaulters; and

(5) to do all other acts that may be necessary for the due and proper conduct of the chitty.

19. (1) The foreman shall, on the prized subscriber furnishing sufficient security for the payment of future subscriptions, be bound to pay him 'the prize amount' and shall be entitled to get an acknowledgment in writing from him evidencing such payment.

The duties of a foreman.

(2) If, owing to the default of the prize winner, the 'prize amount' due in respect of any drawing remains unpaid before the date of the next succeeding instalment the foreman shall invest the same forthwith in any approved bank mentioned in the variyola and intimate in writing the fact of such investment to the prize winner.

(3) Payment of the prize amount under sub section (1) or investment of the same under sub-section (2) shall be intimated to the subscribers at the next succeeding instalment and such payment or investment entered in the minute of proceedings of that instalment.

(4) If the prize amount has not been invested in accordance with the provisions of sub-section (2) or if the amount so invested has been withdrawn for purposes other than those for which the same has been held in deposit, the foreman shall be liable to a fine which may extend to five hundred rupees.

Books to be kept by the foreman.

20. The foreman shall keep—

(1) a register containing—

(*a*) the names and full addresses of the subscribers together with the number of shares held by each subscriber;

(*b*) the dates on which the subscribers signed the variola; and

(*c*) in case of assignment by a subscriber the name and full address of the assignee with the date of assignment and the date on which the assignment has been recognised by the foreman;

(2) a book containing the minute of the proceedings mentioned in Section 15;

(3) a book containing—

(*a*) the amount paid by the subscribers and the dates of such payments;

(*b*) the amount paid to the prized subscribers with the dates of such payments;

(*c*) in case of deposit in Bank, the date and amount of such deposit;

(4) such other books including a day book as may be prescribed from time to time by our Government.

Punishment for failure to keep books.

21. Any foreman who defaults to keep the books as required by Section 20 shall be liable to a fine not exceeding fifty rupees.

Preparation and audit of Balance sheet.

22. (1) Every foreman shall prepare an annual Balance sheet in the manner prescribed therefor, containing a summary of the assets and liabilities of the chitty and giving such particulars as will disclose the nature of the assets and liabilities and how the value of the assets has been arrived at, and the same may be audited by such officer as may be empowered by Our Government in that behalf.

(3) Where a foreman makes default in complying with the provisions of sub-section (1) he shall be liable to a fine which may extend to one hundred rupees.

23. (1) Every foreman shall be liable to the subscribers for the amounts due to them.

Liability of the foreman to the subscribers.

(2) Where there are more foremen than one in a chitty, each one of them shall be jointly and severally liable to the subscribers in respect of the obligations arising out of the chitty.

Withdrawal of a foreman.

24. When there are more foremen than one in a chitty, none of them shall withdraw from it unless such withdrawal is assented to in writing by all the non-prized subscribers. Such withdrawal shall not, however, affect the security deposited under Section 17.

PART IV.

Of non-prized Subscribers.

Non prized subscribers to pay subscriptions and get receipts.

25. Every non-prized subscriber shall pay his subscription at the time and place mentioned in the variola and shall on such payment be entitled to get a receipt from the foreman. In default of such payment, he shall be liable to such consequences as are provided for in the variola.

Removal of defaulting subscribers.

26. (1) If a non-prized subscriber defaults to pay his contribution in accordance with the terms of the variola the foreman may remove him from the list of subscribers and substitute any other person in his place. Every such removal and substitution shall with the dates thereof be entered in the Chitty books. A written notice of such removal and substitution shall be given by the foreman to the defaulting subscriber.

(2) A copy of the entry referred to in sub-section (1) shall be filed by the foreman with the Registrar within fourteen days from the dates of such removal and substitution, in default of which he shall be liable to a fine not exceeding 50 rupees.

The time when a non prized defaulting subscriber is entitled to recover contributions.

27. (1) A defaulting non-prized subscriber shall be entitled at the termination of the chitty to recover from the foreman his contributions subject to such deductions as may be provided for in the variola.

(2) If the chitty terminates on a date other than the one originally fixed in the variola, the defaulter subscribers' claim shall be deemed have arisen only on the date on which he has notice thereof.

28. (1) When a subsituted subscriber draws the prize in respect of his ticket, the amount due to the defaulter subscriber shall be deposited by the foreman in an approved bank before the date of the next succeeding instalment. The amount so deposited may be withdrawn only for payment to the defaulter subscriber in accordance with the provisions of Section 27.

Amount due to defaulter subscriber to be deposited.

(2) Any foreman who contravenes the provisions of sub-section (1) shall be liable to a fine which may extend to fifty rupees.

PART V.

Of prized subscribers.

29. Every prized subscriber shall sign the minute of proceedings relating to the drawing at which he obtains his prize with the date on which he signs the same.

Prized subscriber to sign minutes of proceedings.

30. On demand in writing by the foreman every prized subscriber shall, before drawing the prize amount, furnish sufficient security for the due payment of future subscriptions.

Prized subscriber to give security.

31. Every prized subscriber shall pay his subscriptions regularly at the time and place mentioned in the variola and shall on such payment be entitled to get a receipt from the foreman and in default of such payment, he shall be liable to such consequences as may be fixed in the variola.

Consequences of prized subscriber defaulting to pay his subscriptions.

32. A foreman shall not be entitled to claims consolidated payment of all the future subscriptions from a defaulting prized subscriber unless he shall have demanded the same in writing.

Foreman to give notice in writing before demanding payment of all future subscriptions.

(2) If in a suit instituted by a foreman for consolidated payment of the future subscriptions from a defaulting prized subscriber, the defendant pays into court on or before the date to which the suit is posted for evidence the arrears of subscriptions till that date together with interest thereon at the rate provided for in the variola, or at 12 per cent. per annum whichever is lower, and the costs of the suit, for payment to the plaintiff, then, notwithstanding any contract to the contrary, the court shall pass a decree directing the defendant to deposit in court, for payment to the plaintiff, the future subscriptions on or before the dates, on which they fall due and making him liable for consolidated payment of all the future subscriptions with interest

thereon in case of default to deposit in court anyone instalment on or before the due date and allowing the plaintiff in case of such default to realise in execution all the future subscriptions and interest thereon less the amount, if any, already deposited by the defendant.

Explanation.—The benefit of this sub-section shall be available to a person who holds an interest in any part of the property furnished as security by the prized subscriber for the due payment of the future subscriptions.

(3) All consolidated payments of future subscriptions realised by a foreman shall be deposited in approved banks before the date of the next instalment. The amount so deposited may be withdrawn only for payment of future subscriptions. When the consolidated collection has been realised in the shape of property such property shall remain as security for the due payment of future subscriptions.

(4) Any foreman who contravenes the provisions of sub-section (3) shall be liable to a fine which may extend to fifty rupees.

Part VI.

Of Transfer.

Transfer of rights of foreman when voidable.

33. (1) No transfer of the rights of a foreman to receive subscriptions from prized subscribers shall be made without the previous sanction in writing of the Registrar.

(2) Any such transfer of the rights of a foreman to receive subscriptions from prized subscribers shall if it defeats or delays a non-prized or unpaid prized subscriber, be voidable at the instance of such subscriber.

(3) When under sub-section (2), a transfer is disputed by a subscriber, the burden of proving that the transfer does not defeat or delay such subscriber is upon the transferee.

Transfer to be in writing.

34. Every transfer by a non-prized subscriber of his rights in the Chitty shall be in writing and shall be filed with the foreman.

Recognition of transfer by the foreman.

35. Every transfer under Section 34 shall be recognised by the foreman unless—

(1) the transferee is not solvent; or

(2) the transfer was effected with a view to defeat the provisions of any law.

Entry of transferees name in the books.

36. (1) Every transfer of the rights of a non-prized subscriber shall be entered by the foreman in the books of the chitty.

(2) A true copy of such entry shall be filed by the foreman with the Registrar within fourteen days from the date of such entry, in default of which the foreman shall be liable to a fine not exceeding fifty rupees.

Part VII.

Of meetings of the General body of subscribers.

How meetings to be held.

37. (1) The foreman may, on his own initiative, convene a special meeting of the general body of subscribers for considering any proposal to pass a special resolution.

(2) The foreman shall convene such a meeting on the requisition in writing of not less than twenty-five per cent of the number of non-prized and unpaid prized subscribers; and if the foreman refuses or fails to call the meeting within fourteen days of the receipt of such requisition, the meeting may be convened by not less than twenty-five per cent of the number of non-prized and unpaid prized subscribers. The foreman so refusing or failing to call such a meeting shall be liable to a fine which may extend to one hundred rupees.

(3) Notice of not less than fourteen days shall be given to all subscribers of a meeting under this section specifying the object, date, hour and place of the meeting. A copy of the proposed special resolution shall also be sent along with the notice.

(4) The quorum for the meeting shall be a number of members representing three fourths in value of the general body of the non-prized and unpaid prized subscribers.

(5) The meeting shall elect its own chairman.

Part VIII.

Of Termination of Chitties.

Provision for continuation of chitties in certain cases.

38. (1) When a foreman dies or becomes of unsound mind his legal representative or his guardian the case may be, shall in the absence of any provision in the variola to the contrary take the place of the foreman and have the right to continue the chitty or to make suitable arrangements for the further conduct thereof.

(2) When a foreman is adjudicated an insolvent under the law relating to insolvent debtors for the time being in force, or withdraws from the chitty under Section 24 or fails to conduct the chitty at any instalment or on any other date before the next succeeding instalment as may have been agreed upon by a special resolution in that behalf, any one or more of the non-prized subscribers authorised by a special resolution may, in the absence of any provision in the variola for the future conduct of the chitty take the place of the foreman and have the right to continue the chitty or to make suitable arrangements for the further conduct of the chitty.

39. A chitty shall be deemed to have terminated only:—

Termination of chitty.

(1) when the period fixed in the variola or the period as altered by a subsequent special resolution for the duration of the chitty has expired;

(2) when the legal representative of a deceased foreman or the guardian of a foreman of unsound mind or the subscriber or subscribers selected therefor fail to conduct the chitty or make suitable arrangements for the further conduct of the chitty as provided for in Section 38:

Provided however that if there are more foremen than one and one or more such foremen are living and are not disqualified to act under Section 38 the chitty shall not be deemed to have terminated under this clause if there is provision in the variola enabling the remaining foreman or foremen to conduct the chitty or if the non-prized subscribers agree by a special resolution to the conduct of the chitty by the remaining foreman or foremen.

A copy of special resolution to be filed with the Registrar.

40. A true copy of every resolution mentioned in the proviso to Section 39 shall with the date thereof be filed by the remaining foreman, or foremen with the Registrar within fourteen days from the date of the resolution in default of which he or they shall be liable to a fine not exceeding fifty rupees.

Refund of non-prized subscriber's contributions.

41. Except in the case of clause (1) of Section 39, every non-prized subscriber shall, unless otherwise provided for in the variola and subject to the provisions of Section 27, be entitled to get back his contributions at the termination of the chitty without any deduction for veethapalisa, if any, received by him.

Preference of subscribers over chitty assets

42. Where there are debts due from the foreman of a chitty in relation thereto and also other debts due from such foreman, the chitty assets shall be a first charge for payment of the chitty debts due to the subscribers.

Part IX.

Of inspection of documents.

Foreman to allow subscriber to examine chitty records.

43 (1) Every foreman shall allow non-prized and unpaid prized subscribers all reasonable facilities on all chitty days within the hours to be fixed therefor in the variola, for the inspection of security bonds, receipts, and other records, taken from prized subscribers or furnished by the foreman himself in his capacity as a subscriber all chitty records including account books and pass books, the annual balance sheets and profit and loss accounts and such other records as may show the actual financial position of the chitty scheme,

(2) Any foreman who contravenes the provisions of sub-section (1) shall be liable to a fine not exceeding fifty rupees.

Preservation of chitty records by foreman.

44. (1) All the records pertaining to a chitty shall be preserved intact by the foreman and kept for a period of six years from the date of the termination of the chitty.

(2) If a foreman who is required by a court or by an officer empowered in that behalf within the period mentioned above, to produce any such record, fails to do so, it shall be persumed that the record, if produced would be unfavourable to him.

Inspection of chitty books.

45. Any officer empowered by Our Government in this behalf may inspect the chitty books after giving due notice in writing to the foreman.

Foreman to allow facilities for inspection.

46. Every foreman shall allow such officer all reasonable facilities for inspection and shall furnish such information to him as he may require.

Penalty for contravening Section 46.

47. Any foreman who contravenes the provisions of Section 46 shall be liable to a fine not exceeding fifty rupees.

PART X.

Winding up of Chitties.

Chitty when to be wound up.

48. A chitty may be wound up by the District Court within whose territorial jurisdiction the chitty has been registered.

(1) if the chitty has terminated under clause (2) of Section 39; or

(2) if the foreman fails to furnish the security specified in Section 17 or if he fails to deposit the chitty moneys in accordance with the provisions of sub-section (2) of Section 19 or sub-section (1) of Section 28 or sub-section (3) of Section 32; or

(3) if it is proved to the satisfaction of the court that the foreman is unable to pay the amounts due to the subscribers.

Explanation: In determining whether the foreman is unable to pay such amounts, the courts shall take into account his contingent and prospective liabilities in respect of the chitty; or

(4) if execution or other process issued on a decree or order of any court in favour of any subscriber in respect of amounts due to him from the chitty is returned unsatisfied in whole or in part; or

(5) if it is proved that there has been fraud or collusion on the part of the foreman in the matter of taking securities from a prized subscriber; or

(6) if the foreman has appropriated prize amount in his capacity as a subscriber without furnishing sufficient security for future subscriptions; or

(7) if it is just and equitable that the chitty would be wound up.

Winding up application.

49. The application to the court for the winding up of a chitty shall be by a petition presented by any non-prized or unpaid prized subscriber or by the Registrar, signed and verified in the manner prescribed by the Code of Civil Procedure, 1100 and shall contain such particulars as may be prescribed:

Provided that no petition for winding up a chitty under clauses (3) and (7) of Section 48 shall lie unless such petition is presented by at least twenty-five per cent. of the non-prized and unpaid prized subscribers, if any.

Explanation: For the purposes of the proviso to this Section a subscriber of a fraction of a ticket shall be deemed to be a subscriber only to the extent of such fraction.

Insolvency or liquidation a bar to winding up proceedings.

50. Notwithstanding anything contained in Section 48 and 49, no petition for the winding up of a chitty, shall be entertained by a court if proceedings under the Travancore Insolvency Act, 1108 are pending against the foreman for adjudging him an insolvent or where the foreman is a company, if proceedings for winding up the company are pending against such company in a court.

Commencement and effect of winding up order.

51. An order for the winding up of a chitty shall operate in favour of all the subscribers to whom amounts are due from the chitty and it shall be deemed to have commenced from the time of the presentation of the petition for the winding up.

Injunction Order.

52. The court may, upon application of the foreman or of any subscriber to whom amounts are due in respect of the chitty, at any time after the presentation of the petition for winding up of a chitty under this Act and before the making of an order for the appointment of an interim Receiver or for winding up the chitty, restrain further proceedings in any suit or proceeding instituted against the foreman for the realisation of amounts due from the chitty, upon such terms as the court thinks fit.

Powers of court on hearing the petition.

53. On hearing the petition, the court may dismiss it with or without costs or adjourn the hearing conditionally or unconditionally or make an interim order or any other order that it deems fit.

Vesting of chitty assets in receiver.

54. On the making of an order for winding up a chitty, the entire chitty assets shall vest in the court or in the Receiver appointed by the court, for distribution amongst subscribers to whom amounts are due in respect of the chitty.

55. When a winding up order has been made or an interim Receiver has been appointed, no suit or other legal proceedings shall be continued or commenced against the foreman by a subscriber for the realisation of amounts due to him in respect of the chitty except with the leave of the court winding up the chitty and on such terms as the court may impose.

Suits stayed on winding up order.

56. (1) On the making of a winding up order, it shall be the duty of the petitioner in the winding up proceedings and of the Receiver to file with the Registrar a copy of the order, within a month from the date of the making of the order.

Copy of winding up order to be filed with the Registrar.

(2) On the filing of a copy of the winding up order the Registrar shall make an entry thereof in his books relating to the chitty and shall notify in Our Government Gazette that such an order has been made.

57. Where, during the pendency of the proceedings for winding up a chitty, the foreman or all the foremen where there are more than one foreman are adjudicated insolvents or where the foreman is a company, the company has been ordered to be wound up by the court, the winding up proceedings under this part shall cease and the distribution of the chitty assets shall subject to the provisions contained in Sections 42 and 51, be made by the Insolvency Court or the court winding up the company as the case may be. Where insolvency proceedings against the fereman are pending in different courts, Our High Court may transfer the proceedings in one court to another as it may deem fit.

Stay of winding up proceedings on insolvency of foreman and transfer of insolvency proceedings.

58. (1) Where a petition presented for winding up a chitty is dismissed and the court is satisfied that the petition was frivolous or vexatious, the Court may on the application of the foreman, award against the petitioner such amount not exceeding five hundred rupees as it deems reasonable compensation to the foreman for the expense or injury occasioned to him by the petition and the proceedings thereon and such amount may be realised as if the award were a decree.

Penalty.

(2) An award under sub-section (1), shall bar any suit for compensation in respect of such petition and the proceedings thereon.

59. The foreman, any subscriber, the receiver or any other person aggrieved by a decision or order of the Court in proceedings for winding up a Chitty may within two months from the date of such decision or order, appeal to our High Court.

Right of appeal.

60. (1) Where an order refusing to wind up a chitty has been made under this Act, the chitty shall be deemed to have been under suspension from the date of the presentation of the petition to the date of such order in respect of non-prized subscribers; and notwithstanding any-

Limitation.

thing contained in the variola, no non-prized subscriber who was not a defaulter on the date of presentation of the petition for winding up shall be deemed to be a defaulter on the date of its dismissal.

(2) Where an order refusing to wind up a chitty has been made under this Act, in computing the period of Limitation prescribed for any suit or other legal proceedings (other than a suit or application in respect of which the leave of the court has been obtained) which might have been brought or made out for the presentation of the petition for winding up the chitty, the period from the date of the presentation of the petition to the date of the order refusing to wind up the chitty shall be excluded.

(3) Nothing contained in this Part shall affect the right of the subscriber to proceed against the foreman personally for the balance, if any, of the amount due to him after the declaration of the final dividend in proceedings for winding up the chitty and in computing the period of limitation prescribed for any such suit or application for execution of a decree the period from the date of the presentation of the petition for winding up the chitty to the date of the declaration of the final dividend shall be excluded.

PART XI.

Registration Office and fees.

Registration Office.

61. For the purpose of registration of chitties under this Act there shall be offices at such places as Our Government think fit, and no chitty shall be registered except at such offices.

Registrar.

62. Our Government may appoint Registrars for the registration of chitties under this Act and may make rules with respect to their duties.

Inspection of documents in the Registrar's Office.

63. Any person may inspect the documents kept by the Registrar on payment of such fees as may be prescribed and any person may require a certificate of registration of any chitty or a copy or extract of any other document to be certified by the Registrar on payment, for the certificate, certified copy or extract of such fees as may be prescribed.

Levy of fees.

64. (1) There shall be paid to the Registrar such fees as Our Government may from time to time prescribe for,—

(a) the registration of a variola under Section 10.

(b) filing with the Registrar of copies of documents as required under Sections 13 (2), 16 (1), 26 (2), 36 (2) and 40;

(c) the inspection of a document under Section 63.

(d) any certificate, copy or extract under Section 63; and

(e) such other purposes as appear necessary to effect the purposes of this Act.

(2) A table of fees payable under sub-section (1) shall be published in Our Government Gazette.

PART XII.

Miscellaneous.

65. All payments in respect of a chitty whether by the foreman or by the subscriber shall be evidenced by documents in writing, in the prescribed manner,

Payments to be evidenced by documents.

66. No Court inferior to that of a Magistrate of the First Class shall try an offence under this Act.

Cognisance of offences.

67. The Court imposing any fine under this Act may direct that the whole or any part thereof be applied in or towards payments of the costs of the proceedings.

Application of fine.

58. (1) Where a petition presented for winding up a chitty is dismissed and the court is satisfied that the petition was frivolous or vexatious, the Court may on the application of the foreman, award against the petitioner such amount not exceeding five hundred rupees as it deems reasonable compensation to the foreman for the expense or injury occasioned to him by the petition and the proceedings thereon and such amount may be realised as if the award were a decree.

Penalty.

(2) An award under sub-section (1), shall bar any suit for compensation in respect of such petition and the proceedings thereon.

59. The foreman, any subscriber, the receiver or any other person aggrieved by a decision or order of the Court in proceedings for winding up a Chitty may within two months from the date of such decision or order, appeal to Our High Court.

Right of appeal.

60. (1) Where an order refusing to wind up a chitty has been made under this Act, the chitty shall be deemed to have been under suspension from the date of the presentation of the petition to the date of such order in respect of non-prized subscribers; and notwithstanding anything contained in the variola, no non-prized subscriber who was not a defaulter on the date of presentation of the petition for winding up shall be deemed to be a defaulter on the date of its dismissal.

Limitation.

(2) Where an order refusing to wind up a chitty has been made under this Act, in computing the period of limitation prescribed for any suit or other legal proceedings (other than a suit or application in respect of which the leave of the court has been obtained) which might have been brought or made out for the presentation of the petition for winding up the chitty, the period from the date of the presentation of the petition to the date of the order refusing to wind up the chitty shall be excluded.

(3) Nothing contained in this Part shall affect the right of the subscriber to proceed against the foreman personally for the balance, if any, of the amount due to him after the declaration of the final dividend in proceedings for winding up the chitty and in computing the

period of limitation prescribed for any such suit or application for execution of a decree the period from the date of the presentation of the petition for winding up the chitty to the date of the declaration of the final dividend shall be excluded.

PART XI.

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Registration Office.

61. For the purpose of registration of chitties under this Act there shall be offices at such places as Our Government think fit, and no chitty shall be registered except at such offices.

Registrar.

62. Our Government may appoint Registrars for the registration of chitties under this Act and may make rules with respect to their duties.

Inspection of documents in the Registrar's office.

63. Any person may inspect the documents kept by the Registrar, on payment of such fees as may be prescribed and any person may require a certificate of registration of any chitty or a copy or extract of any other document to be certified by the Registrar on payment for the certificate, certified copy or extract of such fees as may be prescribed.

Levy of fees.

64. (1) There shall be paid to the Registrar such fees as Our Government may from time to time prescribe for,—

(a) the registration of a variola under Section 10.

(b) filing with the Registrar of copies of documents as required under Sections 13 (2), 16 (1), 26 (2), 36 (2), and 40;

(c) the inspection of a document under Section 63.

(d) any certificate, copy of extract under Section 63; and

(e) such other purposes as appear necessary to effect the purposes of this Act.

(2) A table of fees payable under sub-section (1) shall be published in Our Government Gazette.

PART XII.

Miscellaneous.

Payments to be evidenced by documents.

65. All payments in respect of a chitty whether by the foreman or by the subscriber shall be evidenced by documents in writing, in the prescribed manner.

Cognisance of offences.

66. No Court inferior to that of a Magistrate of the First Class shall try an offence under this Act.

Application of fine.

67. The Court imposing any fine under this Act may direct that the whole or any part thereof be applied in or towards payments of the costs of the proceedings.

68. (1) Notwithstanding anything contained in the Code of Criminal Procedure, 1100, any officer empowered by Our Government in this behalf may, at any time, on receipt of such compensation as may be fixed by such officer, compound any offence, punishable under the foregoing provisions of this Act.

Compounding of offences.

(2) Such composition shall have the effect of an acquittal of the accused.

69. Whoever in any document required by or for the purposes of any of the provisions of this Act, wilfully makes a statement false in any material particular knowing it to be false, shall be punishable with imprisonment of either description for a term which may extend to one year, or with fine or with both.

Penalty for false statement.

70. No Court shall award interest on claims for grain arising under this Act are more than 12 per cent. per annum.

Interest at more than 12 per cent. not to be allowed on grain.

71. Nothing contained in Section 8 of the Travancore insolvency Act of 1108 shall apply to a Chitty registered under this Act.

Section 8 of Act VIII of 1108 inapplicable to chitties.

72. Nothing contained in the foregoing provisions of this Act, shall affect the powers vested in Courts for granting relief against any of the provisions contained in the variola, if the same be unconscionable or opposed to the provisions of any law.

Power of Courts to grant relief in certain cases.

73. (1) Our Government may make rules for the purpose of carrying into effect all or any of the provisions of this Act not inconsistent therewith.

Power to make Rules.

(2) In particular and without prejudice to the generality of the foregoing power, they may make rules :—

(a) with reference to all matters expressly required or allowed by this Act to be prescribed ;

(b) as to the procedure to be followed by the Registrar, in registering a variola ;

(c) as to the safe custody of books, papers and documents in the Registrar's office and also for the destruction of such books, paper and documents as need no longer be kept ;

(d) as to the procedure to be followed for the winding up of a chitty under Part X ;

(e) as to the duties of the Registrars; and

(f) generally for the purpose of carrying into effect the provisions of this Act.

(3) All Rules framed under this section shall be published in Our Government Gazette and upon such publication shall have the force of law.

Repeal of certain enactments.

74. The Travancore Chitties Act, (Act III of 1094) as amended by the Travancore Chitties (Amendment) Act (Act VII of 1097) and the Travancore Chitties (Amendment) Act, (Act VI of 1108) is hereby repealed:

Provided however, such repeal shall not be deemed to affect in any manner the operation of those enactments, subject to the provision contained in sub-section (2) of Section (2) of this Act, in respect of chitties started before the commencement of this Act.

STATEMENT OF OBJECTS AND REASONS.

The Committee appointed to examine and report on banking conditions in Travancore, have in Chapter XIII of their report made certain recommendations for amending the Chitties Act for securing greater safety to subscribers and foremen. Government being satisfied that amendments to the Chitties Act are necessary appointed an ad Hoc Committee to consider the whole question. This Committee submitted its report in due course and Government have accepted their main recommendations. Government have decided that a new amending and consolidating Act may be enacted.
It is therefore proposed to repeal the old Act and replace it by a new one. Hence the Bill.

The Chief features of the Bill are mentioned below :—

1. Section 5 of the Act enforces registration of chitties, but no penalty is provided for non-registration. Clause 6 (2) of the Bill prescribes the penalty for non-registration.

2. Section 50 of the Chitties Act exempts chitties of the value of which is less than Rs. 100 from the provisions of the Act. Experience has shown that such chitties should not be exempted wholly but be subjected to proper control. It is therefore proposed that such chitties should be conducted only under a license though registration is not made compulsory. Clause 7 of the Bill makes the necessary provision.

3. Section 10 of the Act provides that the articles in a variola may be altered or added to by a special resolution. Very often the articles in the variola are altered to the advantage of the foreman. It is necessary to restrict this previlege to certain specified matters only. Necessary provision is made in the Bill [See clause 13 (1)].

In clause 37 provision is also made for calling a meeting of the general body of subscribers for the purpose of passing a special resolution. The procedure to be followed in such meetings is also prescribed.

4. Section 15 of the Act provides that "every foreman shall, before the first drawing of the chitty, execute a bond in favour of or in trust for the other subscribers charging by way of security property sufficient for the realisation of twice the chitty amount" unless otherwise provided for in the variola. Foreman have cleverly circumvented this provision by inserting in the variola a clause allowing them to start the concern without furnishing any security. To better safeguard the interests of subscribers it is expedient to compulsorily enforce that foremen should furnish adequate security in all cases. Necessary provision is made in Clause 17. Deterrent punishment is provided for a contravention of this provision.

5. Section 17 (2) of the Act lays down that if owing to the failure of the prize winner to furnish security the prize amount remains unpaid, the foreman shall before the date of the next instalment invest it in a bank approved by the Government. But there is nothing in the Act to prevent him from withdrawing the amount for purposes other than for payment to the prize winners. Provision is made in Clause 19 (3) for the purpose.

It is found expedient to provide that all moneys the foreman receives by way of consolidated payments from defaulting prized subscribers should be deposited in approved banks and that the foreman should be allowed to withdraw the amount so deposited only for the purposes for which it was held in deposit. It is also necessary to provide that the amounts due to defaulting non-prized subscribers when the substituted subscribers draw their prizes should be similarly deposited and withdraw. Necessary provisions are made in the Bill. See clauses 28 (1) and 32 (3). Failure to comply with the above provisions is made punishable with fine which may extend to fifty rupees.

6. Section 28 of the Act enables a foreman to transfer his right to receive subscriptions from a prized subscriber. This privilege is often misused to the detriment of non-prized subscribers. It is therefore necessary to check the foreman from having a free-hand in the matter. It is proposed that no such transfers should be made except with the sanction of the Registrar. Clause 33 (1) provides for this.

7. When the foreman dies or becomes of unsound mind the legal representative or his guardian shall take the place of the foreman and shall have the right to continue the chitty or to make suitable arrangements for the further conduct of the chitty. (Section 32). The section does not provide for cases where the legal representative or the guardian fails to continue the chitty. Naturally the Chitty will terminate for no fault of the subscribers who may have to sustain great loss. In such cases it is expedient to provide for the continuance of the Chitty by one or more non-prized subscribers selected by a special resolution, and to thus safeguard the interests of the non-prized subscribers. Necessary provision is made in clause 38.

8. The Act does not contain adequate provisions for the maintenance of chitty records by the foreman. Laxity in keeping such records has led to confusion and in certain cases fraud. It is necessary to compel the foreman to keep the necessary records and to file with the Registrar copies of minutes of the proceedings of each drawing, special resolutions, entries relating to the removal of a subscriber and substitution of another in his place and the transfer of rights of non-prized subscribers. Necessary provisions are made in Clauses 16 (1), 13 (2), 26 (2) and 36 (2).

Moreover it is necessary that the chitty records should also be made available for inspection by the subscribers. In the interests of the subscribers it is also necessary that the foreman should be compelled to prepare an annual balance sheet so as to enable the subscribers to know the financial stability of the scheme. Necessary provisions are made. See clauses 43 and 23.

9. There is no provision in the Act for the winding up of chitties under any circumstances. Experience has shown that it is dangerous to allow a chitty to be continued when its financial position is quite unstable. Such continuance often results in great loss and hardship to the subscribers who contribute to a scheme at the verge of collapse in the belief that the scheme is quite sound. It is necessary in the interests of all parties concerned that provision should be made for the winding up of chitties under certain circumstances. Provisions for the purpose are made in Part X. The provisions of Part X are also made applicable to the existing chitties *i. e.*, those which have been registered before this Bill becomes law. (See clause 2 (2)).

10. With a view to the strict enforcement of the provisions of the Bill deterrent punishments are proposed for their contravention.

It is hoped that these new provisions will greatly improve the conduct of the chitties in the State.

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